

Comments Version

Pierce County

Preliminary Draft

Phase I Municipal Stormwater NPDES and
State Waste Discharge General Permit

May 16, 2005

Permit No. _____

Coverage Date _____

Issuance Date:

Effective Date:

Expiration Date:

**National Pollutant Discharge Elimination System and
State Waste Discharge General Permit for Discharges
from Large and Medium Municipal Separate Storm Sewer Systems**

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
OLYMPIA, WASHINGTON 98504-7600

In compliance with the provisions of
The State of Washington Water Pollution Control Law
Chapter 90.48 Revised Code of Washington
and
The Federal Water Pollution Control Act
(The Clean Water Act)
Title 33 United States Code, Section 1251 et seq.

Until this permit expires, is modified, or revoked, Permittees that have properly obtained coverage under this permit are authorized to discharge to waters of the state in accordance with the special and general conditions which follow.

Dave Peeler
Water Quality Program Manager
Department of Ecology

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¹ Terms that are included in the definitions and acronyms section are indicated in italics the first time they are used in the text of the permit.

1 SPECIAL CONDITIONS

2 **S1. PERMIT COVERAGE AND PERMITTEES.**

3 A. Permit Coverage Area

4 This permit covers *discharges* from *Large and Medium Municipal Separate Storm*
5 *Sewer Systems (MS4s)* as established at Title 40 CFR 122.26, except for *municipal*
6 *separate storm sewers (MS3s)* owned or operated by the Washington State Department
7 of Transportation.
8

9 B. The following entities had coverage under a previous municipal *stormwater* permit and
10 reapplied for coverage. Their coverage date under this permit begins on the effective
11 date of this permit. These entities are covered under this permit as Permittees:

12 The City of Seattle

13 The City of Tacoma

14 King County

15 Snohomish County

16 Pierce County

17 Clark County
18

19 C. King County had coverage under a previous municipal stormwater permit, as a *Co-*
20 *Permittee* with the City of Seattle, and reapplied for coverage. Their coverage date
21 under this permit begins on the effective date of this permit. King County is covered as
22 a Co-Permittee with the City of Seattle for discharges it owns or operates in the City of
23 Seattle.

24 D. Upon application and coverage in accordance with Special Condition S1.F, the
25 following entities are covered under this permit as Secondary Permittees:

26 1. Port of Seattle, excluding Seattle-Tacoma International Airport

27 2. Port of Tacoma

28 3. Drainage, diking, flood control, or diking and drainage districts located in the Cities
29 or unincorporated portions of the Counties listed in S2.A., above, which own or
30 operate municipal separate storm sewers serving non-agricultural land uses.

31 4. Other owners or operators of municipal separate storm sewers located in the Cities
32 or unincorporated portions of the Counties listed in S2.A., above.

33 5. *Ecology will take responsibility for identifying additional Secondary Permittees, and*
34 *for notifying them of of obligations under this permit.*
35

36 E. Unless otherwise noted, the term “Permittee” shall include Permittee, Co-Permittee, and
37 Secondary Permittee, as defined above.

38 F. Coverage for Secondary Permittees

1. In order to obtain coverage under this permit, each secondary Permittee identified under Special Condition S1.D shall submit a *Notice of Intent* (NOI) and provide public notice of the application for coverage in accordance with WAC 173-226-130. The NOI shall constitute the application for coverage. Ecology will notify applicants in writing of their status concerning coverage under this permit within 90 days of Ecology's receipt of the NOI and demonstration that the public notice requirements have been met.

2. NOIs shall be submitted to:

Department of Ecology
Water Quality Program
Municipal Stormwater Permit Program
P.O. Box 47600
Olympia, WA 98504-7600

S2. AUTHORIZED DISCHARGES.

A. This permit authorizes the discharge of stormwater to surface waters and to ground waters of the state from municipal separate storm sewers owned or operated by each Permittee, Co-Permittee, and Secondary Permittee identified in Special Condition S1 as follows:

1. *Existing stormwater discharges.*

2. *New stormwater discharges* constructed after the issuance date of this permit that have received all applicable state and local permits and use authorizations, including compliance with Ch. 43.21C RCW (the State Environmental Policy Act), and that are in compliance with Special Condition S5. COMPLIANCE WITH STANDARDS, of this permit.

3. Stormwater discharges to ground waters of the state are covered under this permit, except that stormwater discharges to ground waters of the state that discharge through facilities regulated under the Underground Injection Control (UIC) program, Chapter 173-218 WAC, are not covered under this permit.

4. Stormwater discharges to ground waters not in hydraulic continuity with surface water are covered in this permit only under state authorities, Chapter 90.48 RCW, the Water Pollution Control Act. *I am not sure what this means. What type of discharges would these be besides deep aquifers, and would they then be covered under a state Waste Discharge permit? Some clarification would help.*

B. This permit authorizes discharges of stormwater associated with industrial and construction activity, process wastewater, and non-stormwater discharges from municipal separate storm sewers owned or operated by the Permittee, to waters of the state, only under the following conditions:

1. Non-stormwater discharges and process wastewater must be authorized by another *National Pollutant Discharge Elimination (NPDES)* permit or identified by and in compliance with Special Condition S7.C.8 Illicit Connections and Illicit Discharges Detection and Elimination; or

2. *Stormwater associated with industrial activity*, as defined by 40CFR122.26(b)(14), must be authorized by a separate individual or general NPDES permit, such as the Industrial Stormwater General Permit, Construction Stormwater General Permit, or another General Permit or individual permit issued by the Department.

C. This permit authorizes discharges from fire fighting activities, except training exercises, unless the discharges from fire fighting activities are identified as significant sources of pollutants to waters of the State. *What is the alternative to authorizing discharges from fire fighting? Is it realistic to locate(perhaps in the dark) catchbasins, plug them all off, and provide for the water to go somewhere else other than into the storm drainage system, all while the building and the people in it burn? Why is this in here? This is not something that we could ever control(except the training exercises), so why put it in the permit? It just confuses the issue, gives other people looking at the permit a false impression of what we could control now or in the future, and who among us is rushing out to fires to see what is being discharged to the sewers. It pretty much rests with what is stored in the building, and that is not under our control.*

D. This permit does not authorize illicit discharges except as allowed in Special Condition S7.C.8. *Illicit Connections and Illicit Discharges Detection and Elimination*, nor does it relieve entities responsible for illicit discharges, including spills of oil or hazardous substances, from responsibilities and liabilities under state and federal laws and regulations pertaining to those discharges.

Section D in the 1995 permit stated that the permit did not authorize discharges to waters on trust lands of the Puyallup Tribe. This language is now missing. Does this imply that any discharges we make into the Puyallup in sections controlled by the tribe is authorized by this permit? Why was this section taken out? Are other tribes now delegated as well, and need to be included in the permit? The language in the 95 permit is adequate for this distinction.

S3. RESPONSIBILITIES OF PERMITTEES, CO-PERMITTEES, AND SECONDARY PERMITTEES

A. Each Permittee, Co-Permittee and Secondary Permittee is responsible for compliance with the terms of this permit for the municipal separate storm sewers it owns or operates.

1. Each Permittee is required to comply with all conditions of this permit, except for S8., *Stormwater management program for Co-Permittees and Secondary Permittees*.

2. Each Co-Permittee and Secondary Permittee is required to comply with all conditions of this permit, except for Special Condition S7., *Stormwater management program for Permittees*.

B. Permittees, Co-Permittees and Secondary Permittees may rely on another entity to meet one or more of the requirements of this permit, if the other entity, in fact, implements the control measure, and agrees to implement the control measure on the Permittee's behalf. Permittees that are relying on another entity to satisfy one or more

1 or their permit obligations remain responsible for permit compliance if the other entity
2 fails to implement the permit conditions. Where permit responsibilities are shared they
3 must be documented as follows:

4 1. Permittees and Co-Permittees that are continuing coverage under this permit must
5 submit a statement that describes the permit requirements that will be implemented
6 by other entities. The statement must be signed by all participating entities. There
7 is no deadline for submitting such a statement, provided that this does not alter
8 implementation deadlines. *If there are no deadlines for submitting the signed*
9 *statement, yet it must be signed, how can this be enforced? It seems contradictory*
10 *to me. Also, you carefully removed “interlocal agreements” from this permit as*
11 *opposed to previous drafts, and yet, that is precisely what these “statements” are,*
12 *and they will require an inordinate amount of time and expense to prepare, and in*
13 *the end, they must be approved by the County Council as ordinance. With 6 active*
14 *drainage districts and 24 cities, this could potentially be a huge workload, very*
15 *costly, and of questionable benefit.*

16 2. Secondary Permittees must submit an NOI that describes which requirements they
17 will implement and identify the entities that will implement the other permit
18 requirements in the area served by the secondary Permittee’s MS4. A statement
19 confirming the shared responsibilities, signed by all participating entities, must
20 accompany the NOI. Secondary Permittees may amend their NOI, during the term
21 of the permit, to establish, terminate, or amend shared responsibility arrangements,
22 provided this does not alter implementation deadlines. *Same comment as above on*
23 *“statements”. We may refuse to enter into any “statements” just because of the*
24 *workload, and that may not be the best thing for the environment or the smaller*
25 *entitiest. Also, when would the NOI for the secondary permittees be due at*
26 *Ecology?*

27 C. Unless otherwise noted, all appendices to this permit are incorporated by this
28 reference as if set forth fully within this permit.

29 **S4. TOTAL MAXIMUM DAILY LOAD ALLOCATIONS**

30 A. The following requirements apply if an applicable Total Maximum Daily Load
31 (TMDL) is approved for stormwater discharges from MS4s owned or operated by the
32 Permittee. Applicable TMDLs or applicable TMDL requirements are TMDLs which
33 have been approved by EPA on or before the issuance date of this permit, or which
34 have been approved by EPA prior to the date that the Permittees application is received
35 by Ecology, which ever is later. All Permittees must be in compliance with applicable
36 TMDL requirements.

37
38 B. For TMDLs not listed in Appendix 6 of this permit, which is by this reference as if set
39 forth fully herein, compliance with this permit shall constitute compliance with all
40 applicable TMDLs. Permittees shall track actions required by this Permit that are
41 relevant to applicable TMDLs within their jurisdiction. Each Permittee shall monitor
42 implementation of actions required to achieve compliance with the TMDL. The status

of TMDL implementation must be included as part of the annual reporting requirements submitted to Ecology. Documentation of all relevant actions implemented that affect MS4 discharges to the waterbody segment that is the subject of the TMDL must be included in the annual report *What if there is an appeal to the PCHB, or a lawsuit filed regarding the Permittee's ability to comply with the TMDL? Will they still need to comply during the time the lawsuit is ongoing (or is this something decided by the court or PCHB?). Might be good to clarify this.*

C. For TMDLs and Permittees listed in Appendix 6, listed Permittees shall comply with the TMDL requirements identified in Appendix 6.

1. If water quality monitoring is a specific requirement of a TMDL listed in Appendix 6, the Permittee must develop and implement a TMDL monitoring Quality Assurance Project Plan (QAPP). The Permittee shall submit the TMDL QAPP no later than 90 days after the effective date of this permit, unless otherwise specified in Appendix 6. The monitoring plan shall be submitted to the Department in both paper and electronic form and shall include: *Does this take into account The fact that we do not necessarily do any monitoring until after the DIP has been done? The DIP is what determines who does what, as agreed to in a public process. When the TMDL is submitted to EPA for approval, it just has the SIS, which is very general. It needs to be clarified that monitoring does not take place until the DIP is in place, and all parties know what they have to do. The QAPP is not appropriate until all parties are involved.*
 - a. A detailed discussion and description of the goal and objective(s), monitoring (experimental) design, and sampling and analytical methods.
 - b. A list and maps of the selected TMDL monitoring sites.
 - c. The frequency of data collection to occur at each station or site and the number and types of precipitation events to be targeted for sampling.
 - d. The method and location(s) of precipitation measuring devices.
 - e. The triggers for automated flow monitoring devices.
 - f. The parameters to be measured, as appropriate for and relevant to the TMDL.
 - g. The QAPP will be implemented beginning no later than 180 days after the effective date of this permit.

For those Permittees that have several TMDLs going at once, the 90 day time frame to get the QAPP in is unreasonable. It is also not clear whether or not DOE plans on approving these QAPPs before (or after, or at all) sampling commences. Please clarify. Right now, it takes about 6 months of wrangling back and forth to get a QAPP approved by Ecology, so time frame is an important consideration with respect to compliance. Think about the workload for Ecology as these all come flooding in at once—it will take far longer than 6 months to look at them. For many of us, we would need to hire a consultant to do a proper QAPP

1 with proper statistical analysis, and we all may be shocked at the number of
2 samples to prove a particular level of improvement. Please refer to the Draft
3 Brown and Caldwell proposed monitoring plan for Pierce County. It discussed
4 the need to analyze over 800 fecal coliform samples to show a 90% reduction in
5 fecal coliform with statistical vigor for the Clarks Creek TMDL.. This is a very
6 long term process, eating up a lot of resources. There needs to be a simpler
7 process, particularly if a permittee (or someone else, for that matter) does
8 something like purchase land, a farm, habitat or a large dairy tributary to a
9 creek. I am talking about pollutant trading, something being pushed heavily by
10 EPA, and Ecology needs a working, flexible system to provide for such trades.
11 We would be happy to talk with you further on this matter, as we are pursuing this
12 on South Prairie Creek, where up to 900 cows were removed. We also had our
13 consultant run the Watershed Model to determine how many fecal coliform would
14 be removed. Kim McKee and Stephen Bernath have copies of this analysis, and
15 we would be happy to provide additional copies if you want them. Our point is,
16 pollutant trading and acquisition should be a part of Ecology's strategy, and
17 should be mentioned in the permit.

- 18 2. For TMDLs listed in Appendix 6, affected Permittees shall include, as part of the
19 Permittee's annual report to the Department, a TMDL Summary Implementation
20 Report. The report shall include the status and actions taken by the Permittee to
21 implement the TMDL. The TMDL Summary Report shall document relevant
22 actions taken by the Permittee that affect MS4 discharges to the waterbody segment
23 that is the subject of the TMDL. The report must also identify the status of any
24 applicable TMDL implementation schedule milestones.

- 25
26 D. For TMDLs that are approved by EPA after this permit is issued, the Department may
27 establish TMDL related permit requirements through future permit modification,
28 administrative orders, or when this permit is reissued. Permittees are encouraged to
29 participate in development of TMDLs within their jurisdiction and to begin
30 implementation. The Department may modify this permit to incorporate requirements
31 from TMDLs completed after the issuance of this permit if the Department determines
32 implementation of actions, monitoring or reporting necessary to demonstrate reasonable
33 further progress toward achieving TMDL waste load allocations, and other targets, are
34 not occurring and must be implemented during the term of this permit.

35 *In general, we are very pleased with the approach you are taking to TMDLs in this*
36 *permit. This is a great improvement over the 1995 permit. We appreciate the work*
37 *and thought you put into this.*

38 **S5. COMPLIANCE WITH STANDARDS**

- 39 A. This permit does not authorize a violation of Washington State surface water quality
40 standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200
41 WAC), sediment management standards (chapter 173-204 WAC), or human health-

1 based criteria in the national Toxics Rule (Federal Register, Vol. 57, NO. 246, Dec. 22,
2 1992, pages 60848-60923).

3 *As you are aware, none of the Phase I permittees are comfortable with this language*
4 *that splits out new stormwater discharges. It takes us away from a system-wide, MEP*
5 *technical approach, and steers us toward the end-of-pipe WQS based approach. In*
6 *large County systems, with growth occurring at such a rapid rate, this is setting the*
7 *permittees up for failure and lawsuits. We suggest that the language remain the same*
8 *as in the 1995 permit.*

- 9 B. Existing Stormwater Discharges. In order to meet the goals of the Clean Water Act and
10 make progress towards compliance with applicable surface water, ground water and
11 sediment management standards for all existing stormwater discharges, each Permittee
12 is required to reduce the discharge of pollutants to the Maximum Extent Practicable
13 (MEP).

14 To meet the requirement to reduce the discharge of pollutants to the MEP, each
15 Permittee shall comply with the requirements of this permit.

- 16 C. New Stormwater Discharges. All new stormwater discharges must comply with all
17 applicable surface water, ground water and sediment management standards. New
18 stormwater discharges, authorized or allowed by the Permittee, shall not cause or
19 contribute to a violation of applicable standards. New stormwater discharges include
20 *new stormwater sources* and *new stormwater outfalls*, including all sources contributing
21 to the new stormwater *outfall*. Compliance with *water quality standards* shall be
22 determined as follows:

23 *As you probably surmised at our meeting on July 19th, most of us interpreted this*
24 *section as an assault on vesting doctrine of the State of Washington. The absence of a*
25 *definition of “new stormwater discharge” on the page is what led to this*
26 *misinterpretation. To reduce incidences of this type of misinterpretation, we suggest*
27 *either footnoting the new discharge definition onto this page, or including it right in*
28 *section C. For legal comment suggestions from our attorney regarding most of this*
29 *section, please refer to comments by Tom Bjorgen included with this document.*

30 *We also ask you to consider taking out this entire concept of even telling proponents*
31 *they should do something that is outside of County Code at the time of application. Yes,*
32 *we recognize that you backed off, and tried to soften this by stating we just had to inform*
33 *them that they should do this and that they might have to show someone that the BMPs*
34 *they choose are equally protective. At the time of this writing, we still have the proponent*
35 *of the Westside Business Park vs. Pierce County (please see citation in notes we handed*
36 *out at the Phase 1 meeting) sitting down with elected County officials, and informing*
37 *them that they have not lived up to the requirements of the State Supreme Court. Now,*
38 *imagine the scenario of a developer coming in to Planning and Land Services for a*
39 *permit, and us telling them what is in the paragraphs that followed. Because of the*
40 *Westside decision, and County Code 1)We cannot do that and 2) If we eve try, we will be*
41 *sued, and we will lose. As a result, if you force us via permit to utter the information*

1 contained below to project proponents, it will be with the caveats, "Now that I have told
2 you that as required by DOE via our NPDES permit, let me also state that they will not
3 enforce it, and neither will we". We would also probably appeal the permit in an attempt
4 to get this removed. Please do not make us do something we cannot legally do. The fix:
5 all new discharges come in under the old manual, until such date as the new manual is
6 adopted. Simple, and legal. Barring you making this drastic move, we have put in
7 suggestions for clarification (and again, refer to language from our attorney included in
8 this packet).

- 9 1. If the new stormwater discharge is controlled in accordance with the technical
10 standards in Appendix 1 (which is by this reference as if set forth fully herein) and
11 in compliance with the terms of this permit, then the discharge is in compliance
12 unless *site-specific information* as in 2, below, indicates otherwise. From the
13 effective date of this permit until the date the Permittee adopts the technical
14 standards in this permit, including, at a minimum Appendix 1, the *Best management*
15 *Practices (BMP)* selection and site planning process, types of BMPs and design
16 criteria for BMPs required under S7.C.5 of this permit, each Permittee must provide
17 information to proponents of projects that will result in new stormwater discharges
18 as follows: *The last portion of this paragraph, " ...,each Permittee must provide*
19 *information to proponents of projects that will result in new stormwater discharges*
20 *as follows: ". This makes it appear that simply by providing information we will be*
21 *able to guarantee a result, which is not the case. Better language would be "...,*
22 *each Permittee must provide information to the proponents of projects that will*
23 *inform said proponents of the following requirements of the NPDES permit."*
 - 24 a. That new stormwater discharges are not allowed to cause or contribute to a
25 violation of applicable surface water, ground water and sediment management
26 standards, including the State's narrative criteria for water quality; and
 - 27 b. That project proponents may apply the technical standards referenced in
28 paragraph S5.C.1, above, as a means of achieving compliance; and
 - 29 c. If project proponents choose not to apply the technical standards referenced in
30 paragraph S5.C.1, above, then they must be prepared to demonstrate that the
31 new stormwater discharge does not cause or contribute a violation of applicable
32 surface water, ground water and sediment management standards. Project
33 proponents must be prepared to document how stormwater BMPs were selected,
34 the pollutant removal expected from the selected BMPs, the technical basis
35 which support the performance claims for the selected BMPs, and an
36 assessment of how the selected BMPs will comply with applicable State water
37 quality standards and satisfy the state requirement under Chapter 90.48 RCW to
38 apply all known, available, reasonable methods of prevention, control and
39 treatment (AKART) prior to discharge. *A sentence needs to be included here,*
40 *Ecology will be responsible for determining equivalency of BMPs that are*
41 *proposed by the project proponents.*
- 42 2. If, prior to authorization of a new stormwater discharge, site-specific information
43 indicates that the technical standards in this permit, including, at a minimum

1 Appendix 1, the BMP selection and site planning process, types of BMPs and
2 design criteria for BMPs required under S7.C.5 of this permit are not sufficient to
3 protect beneficial uses of waters of the state from impacts which cause or contribute
4 to loss or impairment, then additional controls necessary to protect beneficial uses
5 must be applied. The additional controls determined necessary to protect beneficial
6 uses must be in place prior to the discharge from the new stormwater source or
7 outfall. *Site-specific information being drawn into the permit as a requirement is*
8 *impossible for us to implement. Here in Pierce County, anything that effects a*
9 *persons use of their property must be placed in County Code. Anything that we*
10 *might discover during the course of a basin plan is not necessarily something we*
11 *can legally make them do without going through a specific legislative process. This*
12 *also would fall under state vesting laws. You cannot spring new requirements*
13 *outside of code onto proponents of a project. This item is grievous enough that an*
14 *appeal or lawsuit is certain if the wording remains the same. We are willing to talk*
15 *to you and explain this further.*

- 16 D. Ecology may modify or revoke and reissue this *general permit* in accordance with
17 General Condition G14., if Ecology becomes aware of additional control measures,
18 management practices or other actions beyond what is required in this permit, that are
19 necessary to reduce the discharge of pollutants to the MEP or to protect water quality.

S6. MONITORING

Ecology is requesting comments on the objectives of the proposed monitoring program.

We are interested in assessing the effect of implementing the stormwater management programs required under this permit. This includes looking at receiving waters, stormwater quality and BMP effectiveness. The information gained will be used to provide feedback for local stormwater management programs and Ecology's permitting program.

Should Ecology require integrated, collaborative, WRIA-scale monitoring programs? WRIA-scale monitoring programs could eventually integrate monitoring among all municipal stormwater permittees, Phase I, Phase II and WSDOT. Or are independent monitoring programs adequate to development the information basis for providing feedback on stormwater management programs?

The proposed monitoring program is universally reviled among both Phase I and Phase II entities. The questions you ask are exceedingly broad, and there is no hope of answering them within the framework proposed. We have given a draft of the proposed Pierce County Monitoring Program to Ecology. Although not yet complete, it will give you the over view of what is proposed, namely starting with the broad biological monitoring in receiving water bodies via BIBI (not RIV-PAC as suggested. The Phase I permit is purely a Puget Sound permit, so let's use the best tool we have with the most historic data available). We then move on to an emphasis on TMDLs, and waterbodies that are on the 303d list that have not yet had a TMDL done. We also have concerns specific to the County, such as shellfish protection, which has a large stormwater component.

What I think this emphasizes is that the monitoring program cannot be one- size-fits-all. We do a lot of flow gauging and well levels to support the work in our basin plans, and shellfish is another specialty item for us. Our money is best spent where we know we can make a difference.

We strongly believe that coordinated monitoring among the Phase I and II entities is the proper approach for the bigger questions. However, doing it by WRIA, and sticking the Phase Is with the responsibility of leadership (herding cats) and reporting is not the way to go. With the exception of perhaps King County, no one has the personnel or desire to do this. As we have maintained all along, for much of the monitoring (and I include BMP monitoring in this category as well) getting a third party to do the set-up, monitoring and reporting in a consistent manor is the only way to get meaningful data. I think the UW is especially suited to this task with the Center for Water and Watershed Studies. All of the papers we quote for this region come from there, and grad students are cheap. Pierce County already contributes to the Center, and would be willing to contribute more anolng with the other entities to get questions answered, and get better techniques developed for stormwater quality control.

1 The Permittees, Port of Seattle and Port of Tacoma shall develop and implement a
2 comprehensive long-term monitoring program. The monitoring program shall include two
3 elements: stormwater and receiving water monitoring, and BMP effectiveness monitoring.
4 The monitoring program must include long-term monitoring and may include short term
5 studies. The results of the monitoring program shall be used to support the adaptive
6 management process and lead to refinements of the Stormwater Management Program.
7 The monitoring program must include Quality Assurance Project Plans (QAPPs) for each
8 monitoring objective, written in accordance with Ecology's QAPP guidelines at
9 <http://www.ecy.wa.gov/biblio/0403030.html>. The monitoring program must be developed
10 by qualified staff or contractors that have experience in applying Ecology's or EPA's
11 QAPP Guidelines.

12 A. Stormwater and Receiving Water Monitoring

13 1. The Permittees, Port of Seattle and Port of Tacoma shall develop and implement
14 comprehensive, long-term water quality monitoring program during the term of this
15 permit. The monitoring program shall be designed to contribute to answering the
16 following questions about the effectiveness of the municipal stormwater permitting
17 and program efforts in protecting and restoring water quality and beneficial uses:

- 18 a. Is implementation of the Stormwater Management Program preventing impacts
19 from the effects of new development by controlling construction and post-
20 construction *runoff*?
- 21 b. Are the Permittees preventing impacts and seeing improvements to beneficial
22 uses by implementing a comprehensive stormwater management program?

23 2. Monitoring Program Coordination and Planning

24 The Permittees and ports may choose to develop the monitoring program, conduct
25 the monitoring, and report results through an integrated, long-term, water quality
26 monitoring program in collaboration with the other Phase I and Phase II MS4
27 permittees in the Water Resource Inventory Area(s) (WRIA) in which their MS4 is
28 located; or they may independently develop a monitoring program, conduct the
29 monitoring, and report results, in accordance with the requirements, below.

30 If a Permittee chooses to participate in the development of an integrated water
31 quality monitoring program in collaboration with the other Permittees in the WRIA
32 in which their MS4 is located, the collaborative effort shall be conducted as
33 follows:

- 34 a. Permittees that choose to participate in the development of an integrated water
35 quality monitoring program shall form a committee for this purpose. The
36 participating Permittees shall submit a written agreement, signed by all
37 participants, that includes the monitoring program development schedule and
38 responsibilities.
- 39 b. The development and implementation of the integrated monitoring program
40 shall be supported by the combined resources of all the participating Permittees.

- 1 c. One permittee shall be identified as the lead permittee for purposes of reporting.
2 The lead permittee shall be responsible for the overall monitoring program
3 management and shall prepare and submit to the Department unified monitoring
4 program plans and reports.

5 The activities of the lead permittee shall include, but not be limited to, the
6 following:

- 7 i. Coordinate and conduct Monitoring Committee meetings on an as needed
8 basis.
9 ii. Coordinate monitoring activities and participate in any subcommittees
10 formed as necessary to coordinate monitoring activities.
11 iii. Provide technical and administrative support and inform the other
12 permittees of the progress of monitoring activities or studies.
13 iv. Coordinate all the activities with the Department, including the submittal of
14 all reports and plans developed by the committee.
15 v. Obtain public input for any proposed monitoring plans, where applicable.
16 vi. Cooperate in the WRIA-based monitoring program.
17 d. The non-lead permittees on the committee shall be responsible for
18 implementing monitoring programs and coordinating among their internal
19 departments and agencies, as appropriate, to facilitate the implementation of the
20 monitoring program.

21 The activities of the non-lead permittees shall include, but not be limited to, the
22 following:

- 23 i. Participate in a Monitoring Committee comprised of the lead permittee
24 and one representative of each of the other permittees. The lead permittee
25 will take the lead role in initiating and developing the WRIA-wide
26 monitoring activities necessary to comply with S6.A above. The
27 committee shall meet on a regular basis (at least six times per year). Each
28 permittee shall designate one official representative to the Monitoring
29 Committee.
30 ii. Review, approve, and comment on all plans, strategies, and monitoring
31 programs, as developed by the lead permittee or any permittee
32 subcommittee to comply with this permit.
33 iii. Conduct and coordinate with the lead permittee any monitoring and
34 characterizations needed to implement the monitoring program.
35 iv. Prepare and submit all required reports to the lead permittee in a timely
36 manner.
37 3. The Permittees and ports shall support the monitoring planning efforts by providing
38 the following resources and information:

1 a. Counties

- 2 i. Each County shall identify potential monitoring stations in receiving
3 waters and in outfalls associated with those receiving waters, in small sub-
4 basins less than ten square miles in area and representing each of the
5 following land uses:

- 6 (1) Medium- to high-density urbanized,
7 (2) Areas of new development (urbanizing), and
8 (3) Low-density residential basins outside the urban growth boundary.

- 9 ii. Each County shall provide maps and staff assistance as necessary to
10 facilitate the evaluation and create a list of potential sites, and to determine
11 land uses in the contributing areas.

12 b. Cities

- 13 i. Each City shall identify potential monitoring stations in receiving waters and
14 in outfalls associated with those receiving waters, in small sub-basins less
15 than ten square miles in area and representing each of the following land
16 uses:

- 17 (1) High-density urbanized, and
18 (2) Medium- to high-density urbanized.

- 19 ii. Each City shall provide maps and staff assistance as necessary to facilitate
20 the evaluation and create a list of potential sites, and to determine land
21 uses in the contributing areas.

22 c. Ports of Seattle and Tacoma

- 23 i. Each Port shall identify potential outfalls for water quality/toxicity
24 monitoring stations and in-line sediment traps.
25 ii. Each Port shall provide maps and staff assistance as necessary to facilitate
26 the evaluation of potential sites and to determine land uses in the
27 contributing areas.

- 28 d. Other secondary Permittees will have no responsibilities for monitoring under
29 this section during this permit term, however, they are required to provide
30 information, maps and access for sampling efforts, as necessary. Other
31 secondary Permittees are encouraged to participate in the monitoring program.

- 32 e. The monitoring program shall include confirmed sampling locations distributed
33 among the geographical areas covered by the permit and among the land uses
34 listed in 3.a.i. and 3.b.i. above. Each sub-basin selected (except for the in-line
35 sediment traps at the Ports) must include a receiving water sampling site and
36 should include a minimum of two outfalls.

37 4. Monitoring Program Development, Review, and Approval
38

Ecology is requesting comments on the question of reviewing and approving the Monitoring Programs.

Should the Monitoring Programs be reviewed and approved? If so, what should be the standard for review? Who is best capable of doing the review? Should an independent entity review the monitoring program? Or should Ecology build up expertise and do the review?

An alternative to reviewing and approving the monitoring program is to include more detailed criteria for the monitoring program in the permit. That criteria would need to be developed before the permit is issued.

If we are doing what was proposed above, with a third party hired to set up monitoring for the big questions, then I think it would be reviewed and approved by all of us, including DOE, and without the QAPP process at Ecology, which takes too much time. I think that solves most of the problems mentioned in the text box above. With varying levels of expertise in the Phase I and II jurisdictions, I think this is the only way to get the quality that all can rely upon. It won't work every time (such is the nature of field work), but it will certainly succeed more than all of trying to do it on our own.

If it has to do with a TMDL, and has grant money attached to it, it already requires a QAPP. Just be aware of any deadlines you may try to place in the permit. Trying to get a QAPP approved by Ecology takes a minimum of 6 months, and if a large number come rolling in as a result of deadlines, that time frame will get even longer.

We will not place comments within the analyte section, because it just needs to be deleted and started over as discussed above. In addition, we don't want to be looking at parameters that require a societal change, that is not something we can effectively get at via stormwater controls. The best examples, from below, are copper (ubiquitous in brake linings) and pesticides (allowed to be used according to Federal law). Testing is expensive, and labor intensive. Let's go with what makes sense, starting with BIBI as outlined above.

The monitoring program and implementation plan shall be submitted no later than 2 years after the effective date of this permit. The monitoring program shall be submitted in both paper and electronic form and shall include all the required elements of the QAPP, including:

- a. A detailed discussion and description of the purpose, design, and methods of the water quality monitoring program.
- b. A list and maps of all selected receiving water and outfall sampling sites.

- 1 c. The frequency and type of sampling (data collection and analytical methods) or
2 other monitoring effort to occur at each station or site, including but not limited
3 to:
- 4 i. Sampling in the receiving waters:
- 5 (1) Benthic invertebrates (RIV-PAC, fine sediment and temperature
6 metrics),
7 (2) Embeddedness
8 (3) Temperature
9 (4) pH
10 (5) Hardness
- 11 ii. Establishing physical conditions and trends in the stream channel. The
12 monitoring program shall develop this strategy using information from
13 “Monitoring Urban Streams: Strategies and Protocols for Humid-Region
14 Lowland systems” (Environmental Monitoring and Assessment, **71**: 143-
15 164, 2001.)
- 16 iii. Flow-weighted composite storm sampling, and base flow sampling,
17 in outfalls for the following constituents/parameters as appropriate
18 for the monitoring objective: (1) Flow, Hydrograph data including
19 antecedent dry period, rainfall and runoff, discussion of
20 representativeness of storm samples and storm types,
21 (2) TSS and turbidity,
22 (3) Conductivity if tidally influenced,
23 *Conductivity can actually be useful in identifying illicit discharges*
24 *of sewage, and is a meter-based easy test, so should be included*
25 (4) Chloride,
26 (5) Metals (including, at a minimum, total and dissolved copper, zinc, ,
27 cadmium, and lead; and mercury sampling as appropriate in some
28 high density commercial or industrial urban settings) and hardness,
29 (6) Base/Neutral/Acids (BNAs),
30 (7) Pesticides (commercially available and/or known to be applied
31 roadside),
32 (8) Nutrients (including total nitrogen, phosphorus, nitrate/nitrite and
33 orthophosphate),
34 (9) Biochemical oxygen demand (BOD), and
35 (10) Toxicity testing of a “seasonal first-flush” storm event (as defined
36 by Ecology).

- iv. Grab samples in outfalls for the following constituents/parameters as appropriate for the monitoring objective:
- (1) Total Petroleum Hydrocarbons (TPH) using NWTPH-Gx and NWTPH-Dx., and
 - (2) E. coli and Enterococci bacteria.
- v. For in-line sediment traps, percent solids, pH, metals, and BNAs as appropriate for the contributing area land use.
- d. The number of each type of event (e.g. baseflow; “seasonal first-flush” and/or other dry season rainfall; wet season rainfall) to be sampled at each location for each of the types of sampling identified in part C above.
- e. An approved or final monitoring plan must be adopted no later than 30 months after the effective date of this permit.
- f. Full implementation of the stormwater and receiving water monitoring program shall begin no later than 36 months after the effective date of this permit. The third party or parties selected to develop the monitoring plan may continue to be utilized to collect and analyze the data and to write the subsequent reports required under this permit.

5. Monitoring Program Reporting Requirements

Unless Ecology actually has the resources to look at and evaluate and use these reports every single year, there is no point in asking for them yearly. It will just cause frustration for all concerned. Think about it, it looks like doing a TMDL study for every site we commit to each year. This is not a workload we can handle, and not everyone is going to have the money to hire numerous consultants to do this work. Again, monitoring that is cooperative and done by a third party is the best bet to solve this problem also. Also, a December 31 deadline is horrible. If our traditional water year is October thru April, make it due in October.

The stormwater monitoring report shall be submitted by December 31 each year, beginning in 2009. Each report shall include all monitoring data collected during the preceding period from October 1 through September 30. Each report shall also integrate data from earlier years into the analysis of results, as appropriate.

Permittees that choose to participate in an integrated water quality monitoring program shall submit a single integrated monitoring report. Reports shall be submitted in both paper and electronic form and shall include:

- a. A summary of the purpose, design, and methods of the monitoring program,
- b. The status of implementing the monitoring program,
- c. A comprehensive data and QA/QC report for each part of the monitoring program, with an explanation and discussion of the results of each monitoring project,

- d. An analysis of the results of each part of the monitoring program, including any identified water quality problems or improvements or other trends in stormwater or receiving water quality, and
- e. Recommended future actions based on the findings.
- f. If the Permittee monitors any pollutant more frequently than required by the required monitoring program, then the results of this monitoring shall be included in the report. If the Permittee conducts any other stormwater monitoring in addition to that required in the required monitoring program, then it shall provide a description of the additional monitoring in the report.

1 B. Best Management Practice (BMP) Effectiveness Monitoring Program

2
3 There is a need for more local information about the effectiveness of treatment and flow
4 control BMPs. Much of the data about BMP effectiveness comes from other parts of
5 the country *and is based on a variety of different design criteria, rainfall types, and soil*
6 *types - factors that can influence performance and make extrapolations to our situation*
7 *questionable.* Given the need for more data that is generated locally, how should this
8 need be met?

9 The municipal stormwater permittees are the governmental entities that permit and
10 regulate land development, and are responsible for the quality of water discharged to
11 waters of the state through their storm sewer systems. Therefore, it seems appropriate
12 to have the permittees primarily responsible for determining the effectiveness of
13 measures intended to reduce the discharge of pollutants to the Maximum Extent
14 Practicable. Is it appropriate to include BMP effectiveness monitoring as a requirement
15 of this permit?

16
17 *We disagree entirely with you on this. A lot of researchers have spent a lot of*
18 *time and millions of dollars to test BMPs nationwide. There is a national database for*
19 *BMPs and the results. My personal favorite compilation of BMP testing results is in*
20 *the Coastal Zone Management document from about 1994. It has dozens of pages of*
21 *testing results, which vary from in the negative removal percentages to in the 150%*
22 *plus removal category. Why do we think we are going to pin this down any better here*
23 *than anyone else has anywhere else? Seems like a bit of hubris we can't afford.*
24 *Besides, Ecology has already enshrined the use of these BMPs in their manuals. If we*
25 *now prove they are all completely useless, where is the new bag of BMPs that we all*
26 *draw from to replace them??? THERE IS NO BAG!!!!!!! We are behind Bill Leif's*
27 *idea of all(Phase I, Phase II, Ecology, DOT) paying into a fund to develop new BMPs*
28 *or greatly enhance the performance of older ones via retrofit. If 80% of Western*
29 *Washington TMDLs are for temperature and bacteria, and we know how to get at*
30 *temperature (even if we don't have the legal authority to compel private property*
31 *owners to plant trees), it seems our BMP research dollar would be better spent looking*
32 *for new ways to reduce bacterial numbers!! Once again, hiring a third party to do this*
33 *work on behalf of all makes the most sense. It is a waste of money to revisit how ponds*
34 *work in Washington State. Once again, we think you are in a poor position to require*
35 *this since you have already sanctioned BMP use via the manual.*

36 The Permittees and ports shall develop and implement a comprehensive, long-term
37 BMP effectiveness monitoring program as described in this section. Structural Runoff
38 Treatment BMPs, and Flow Reduction Strategies will be evaluated. The primary
39 purpose of the BMP effectiveness monitoring program is to provide a feedback loop for
adaptive management of the Permittees' stormwater management programs and the
Department of Ecology's municipal stormwater permitting program. The BMP
effectiveness monitoring program shall be designed to contribute to answering the

1 following questions about the short term and long term performance of BMPS in
2 protecting and restoring water quality and beneficial uses:

- 3 a. Is implementation of the Stormwater Management Program preventing impacts
4 from the effects of new development by controlling construction and post-
5 construction runoff?
- 6 b. Are the Permittees preventing impacts and seeing improvements to beneficial
7 uses by implementing a comprehensive stormwater management program?

8 1. BMP Effectiveness Monitoring - Program Coordination and Planning.

9 The Permittees and ports may choose to develop the BMP effectiveness monitoring
10 program, conduct the monitoring, and report results through a single long-term
11 monitoring program that will be supported by the combined resources of all of the
12 Permittees and the ports; or they may independently develop a BMP effectiveness
13 monitoring program, conduct the monitoring, and report results, in accordance with
14 the requirements, below. If a collaborative approach is chosen, the committee
15 process outlined in S8.A.2., above, shall be followed.

16 The BMP effectiveness monitoring program shall be designed to evaluate all of the
17 BMPs listed below, at no less than 2 sites per BMP, and 6 flow reduction strategies.
18 The monitoring program must include QAPPs for each BMP and flow reduction
19 strategy being monitored. The monitoring program must be developed by
20 qualified staff or contractors that have experience with Ecology's or EPA's
21 Guidelines for Quality Assurance Project Plans (QAPP). The Permittees shall
22 support monitoring planning efforts by providing the following resources and
23 information:

24 a. Responsibilities of Counties, Cities, and Ports of Seattle and Tacoma

- 25 i. Each Permittee shall identify potential sites where the following types of
26 BMPs are in use or planned for installation (the BMPs shall have been/will
27 be designed using criteria similar to the 2005 Western Washington
28 Stormwater Management Manual). QAPPs for short detention time BMPs
29 should follow the TAPE protocols. QAPPs for long detention time BMPs
30 will need to develop sampling protocols. BMP treatment types:

31 (1) Basic Treatment

32 Biofiltration swale

33 Filter strip

34 Basic wetpond

35 Treatment wetland

36 Sand filter

37 (2) Metals/Phosphorus Treatment

38 Amended sand filter

Two facility treatment train

Compost amended filter strips

Bioretention

Large wetpond

(3) Oil Control

Linear sand filter

Catch basin insert

ii. Each Permittee shall provide a prioritized list of the types of structural treatment BMPs to monitor.

iii. Each City and County Permittee shall identify and describe a flow reduction strategy that is in use or planned for installation in their jurisdiction, and is suitable for monitoring.

iv. Each Permittee shall provide staff assistance as necessary to facilitate the evaluation and selection of potential sites.

b. Other special Permittees will have no responsibilities for BMP effectiveness monitoring under this section during this permit term.

2. BMP Effectiveness Monitoring Program Development, Review, and Approval

Ecology is requesting comments on the question of reviewing and approving the Monitoring Programs.

Should the Monitoring Programs be reviewed and approved, prior to implementation? If so, what should be the standard for review? Who is best capable of doing the review? Should an independent entity review the monitoring program? Or should Ecology build up expertise and do the review?

An alternative to reviewing and approving the monitoring program is to include more detailed criteria for the monitoring program in the permit. That criteria would need to be developed before the permit is issued.

See previous comments, and scratch this section. Let's initiate a forum on the development of new or enhanced BMPs.

The Permittees and ports shall submit a BMP effectiveness monitoring program plan no later than 2 years after the effective date of this permit. The monitoring plan shall be submitted in both paper and electronic form and shall include:

- a. A detailed discussion and description of the purpose, design, and methods of the BMP effectiveness monitoring program, including Quality Assurance Project Plans (QAPPs) for each BMP being monitored.
- b. A detailed discussion and description of the purpose, design, and methods of the flow reduction strategy monitoring program, and QAPPs for each flow reduction strategy being monitored.
- c. A list and maps of all proposed and selected monitoring sites, including the date of installation/construction.
- d. The Permittees' prioritized lists of structural treatment BMPs to monitor.
- e. Records of inspection and maintenance on each of the BMPs selected.
- f. The methods, protocols, analytical laboratory methods to be used.
- g. The frequency of data collection to occur at each station or site and the number and types of precipitation events to be targeted for sampling.
- h. The parameters to be measured in the inflow to and outflow from each BMP, or flow reduction strategy, as appropriate for the contributing area land use and performance expectations of the selected BMP:
 - i. Flow (rate, duration and volume)
 - ii. Hydrograph data including antecedent dry period, rainfall and runoff, discussion of representativeness of storm samples and storm types.
 - iii. TSS,
 - iv. pH, hardness, and temperature,
 - v. Metals (including, at a minimum, total and dissolved copper, zinc, arsenic, cadmium, chromium, and lead),
 - vi. Total Petroleum Hydrocarbons (NWTPH-Gx and NWTPH-Dx),
 - vii. BNAs,
 - viii. Pesticides (commercially available and/or known to be applied roadside),
 - ix. Nutrients (including total nitrogen, total phosphorus, nitrate/nitrite and orthophosphate),
 - x. Biochemical oxygen demand (BOD),
 - xi. E. coli and Enterocci bacteria, and/or
 - xii. Toxicity
- i. The BMP effectiveness monitoring program must also describe a framework for Phase II Permittees in western Washington to enhance BMP effectiveness monitoring during future permit cycles.
- j. An approved BMP effectiveness monitoring plan must be adopted by no later than 30 months after the effective date of this permit.

- 1 k. Full implementation of the stormwater and receiving water monitoring program
2 shall begin no later than 36 months after the effective date of this permit. . The
3 third party or parties selected to develop the monitoring plan may continue to be
4 utilized to collect and analyze the data and to write the subsequent reports
5 required under this permit.

6 3. BMP Effectiveness Monitoring Reporting Requirements

7 The BMP effectiveness monitoring report shall be submitted by December 31 each
8 year, beginning in 2009. Each report shall include all monitoring data collected
9 during the preceding period from October 1 through September 30. Each report
10 shall also integrate data from earlier years into the analysis of results, as
11 appropriate. Permittees that choose to participate in an integrated water quality
12 monitoring program shall submit a single integrated monitoring report. Reports
13 shall be submitted in both paper and electronic form and shall include:

- 14 a. A summary of the purpose, design, and methods of the monitoring program,
15 b. The status of implementing the monitoring program,
16 c. The status of implementing the QAPP for each part of the monitoring program,
17 with an explanation and discussion of the results of each component,
18 d. An analysis of the results of each component of the monitoring program,
19 including any identified BMP performance problems, and
20 e. Recommended future actions based on the findings.

21
22 **S7. STORMWATER MANAGEMENT PROGRAM**

23
24 Note to Reviewers:

25 Ecology is specifically requesting comments on the organization of the Stormwater
26 Management Program in the Phase I and Western Washington Phase II permits.

27 The current organization in the Phase II permit follows the EPA six minimum
28 measures, while the organization for the Phase I municipal stormwater permit reflects
29 the old permit and other factors. Should the two permits have a consistent
30 organizational structure/outline for the stormwater management program? If so,
31 should the structure follow the organization either the Phase I or Western Washington
32 Phase II permit, or a different structure altogether?

33 *We do not have strong opinions at this time about the organization of the permits, except*
34 *to say that having the Secondary Permittee requirements mixed in with the Permittee*
35 *requirements is confusing. I had to keep flipping back a couple of pages to see who was*

1 *being referred to. Separating them out into their own special section (or a separate*
2 *permit) would be helpful, but not entirely essential.*

3 A. Each Permittee shall implement a Stormwater Management Program (SWMP) during
4 the term of this permit. For the purpose of this permit a stormwater management
5 program is a set of actions comprising the *components* listed in S7.B., S7.C.1 through
6 S7.C.10., and additional actions and activities, where necessary, to meet the
7 requirements of applicable TMDLs.

8 1. Each Permittee shall prepare written documentation of their SWMP and submit it to
9 Ecology in written and electronic formats with the first year annual report, in
10 accordance with the requirements in S9 REPORTING REQUIREMENTS. The
11 documentation of the SWMP shall be organized according to the program
12 components in S7.C., and shall be updated annually. The SWMP documentation
13 shall include a description of each of the program components included in S7.C,
14 and any additional actions necessary to meet the requirements of applicable
15 TMDLs.

16 *It is our opinion, based on Federal court decisions regarding the Phase II*
17 *program, that Ecology is going to have to have an approval process for both Phase*
18 *I and II permits. What if we submit it and there is something Ecology doesn't like?*
19 *When will you even get around to reading them all if it is not a requirement? Will*
20 *you get back to us in a timely manner so we can change the program before we get*
21 *too far down a road that you won't approve of? Won't we all (permittees and*
22 *Ecology) be better protected from lawsuit if Ecology approves these based on a set*
23 *of criteria (that could be derived from the report format)? We would suggest you*
24 *develop an approval process. We would be willing to help with that effort.*

25 3. Each permittee shall track the cost of development and implementation of the
26 SWMP required by this section. This information shall be included in the annual
27 report.

28 *Please refer to Rod Swanson's written comments from the Phase I meeting. The*
29 *numbers we can provide are not highly accurate due to trying to separate out*
30 *stormwater dollars in departments where that is not their main mission (such as Road*
31 *Maintenance, and Planning and Land Services (permitting). This needs to be made as*
32 *easy as possible (like a lump sum) or eliminated. The rest of the annual report should*
33 *give you a good idea of how much we are getting done.*

34 B. The SWMP shall be designed to reduce the discharge of pollutants from MS4s to the
35 maximum extent practicable and protect water quality.

36 Permittees are to continue implementation of existing stormwater management
37 programs until they begin implementation of the updated stormwater management
38 program in accordance with the terms of this permit, including implementation
39 schedules.

40 C. The SWMP shall include the components listed below. All components are mandatory
41 and must be implemented by each Permittee. The requirements of the stormwater

1 management program shall apply to municipal separate storm sewers and areas served
2 by municipal separate storm sewers owned or operated by each Permittee. Co-
3 Permittees and Secondary Permittees are responsible for implementation of Stormwater
4 Management Programs as indicated in Special Condition S8.

5 *We appreciated your explanation of why this item (Legal Authority) was still in*
6 *the permit even though we have already done it as a requirement of the first permit. It*
7 *was alarming to think we would have to re-prove all of our authority over again—a big*
8 *waste of time. It may help to clarify this by stating in the permit or fact sheet that*
9 *“Permittees who developed and implemented these authorities under the 1995 permit*
10 *are not required to resubmit this section, and will only be required to submit the*
11 *statement from legal counsel as outlined in 1c.” In addition, you might ask us to tell*
12 *you where we are having problems with our legal authority, with a mind toward fixing*
13 *some things at the state Legislature. For instance, we are having problems with animal*
14 *waste on sites that are grandfathered for animal usage. It has been suggested that our*
15 *Health Department gain greater ability to enforce by designating manure as a solid*
16 *waste, but their attorneys state that that is a problem, and it may have a basis in state*
17 *law (which may not have caught up to Kitsap County yet). Or, better yet, Ecology can*
18 *rehire the non-dairy livestock people who used to help us with such problems!!! Also,*
19 *the McReady decision, which also affects Ecology’s ability to enter onto properties, is*
20 *still in place, and needs to be fixed at the legislative level. I know Seattle tried to do it,*
21 *and got shut down at the committee level.*

22 1. Legal Authority

- 23 a. No later than the effective date of this permit, each Permittee must be able to
24 demonstrate that they operate pursuant to adequate legal authority which
25 authorizes or enables the Permittee to control discharges to and from municipal
26 separate storm sewers owned or operated by the Permittee.
- 27 b. This legal authority, which may be a combination of statute, ordinance, permit,
28 contracts, orders, interagency agreements, or similar means, shall include the
29 ability to:
- 30 i. Control the contribution of pollutants to municipal separate storm sewers
31 owned or operated by the Permittee from stormwater discharges associated
32 with industrial activity, and control the quality of stormwater discharged
33 from sites of industrial activity;
- 34 ii. Prohibit illicit discharges to the municipal separate storm sewer owned or
35 operated by the Permittee;
- 36 iii. Control the discharge of spills and the dumping or disposal of materials
37 other than stormwater into the municipal separate storm sewers owned or
38 operated by the Permittee;
- 39 iv. Control the contribution of pollutants from one portion of the municipal
40 separate storm sewer system to another portion of the municipal separate
41 storm sewer system, where there is a physical interconnection between

1 municipal separate storm sewers owned or operated by the municipality, and
2 those of an adjoining municipality or other public entity, including co-
3 Permittees; *As we have stated in the past, this is Ecology's responsibility,*
4 *not ours. We do not have the authority to do this. If we have problems with*
5 *another entity, we will approach them, and attempt to work out a solution,*
6 *but if they do not cease the discharge of pollutants, it is Ecology's legal*
7 *mandate under 90.48 to take action to stop the discharge.*

- 8 v. Require compliance with conditions in ordinances, permits, contracts, or
9 orders; and,
- 10 vi. Within the limitations of state law, carry out all inspection, surveillance, and
11 monitoring procedures necessary to determine compliance and non-
12 compliance with permit conditions, including the prohibition on illicit
13 discharges to the municipal separate storm sewer and compliance with local
14 ordinances.
- 15 c. Each Permittee shall submit, no later than one year from the effective date of the
16 permit, a statement by its legal counsel that the Permittee has all necessary legal
17 authority to comply with this permit.

18 2. Gathering, Maintaining, and Using Adequate Information

19 *Most of this item does not cause us consternation. However, some parts do.*
20 *Section f. is an item that may take more than 2 years. We agree that making data*
21 *available to the public is an important goal, but for those with a lot of data, much*
22 *of which may not be in electronic format, or even in a suitable electronic format*
23 *due to the rapid pace of change in this area, extra time is needed. Give it at least*
24 *4 years. Section g also caused problems, because not all permittee's GIS*
25 *operates with the same system as the State system does, and conversion may be*
26 *costly or impossible. Please see the write up from Linda Gerull, head of our GIS*
27 *section, for some of the problems she sees with the way this is written. We want*
28 *to cooperate with Ecology, and will help where we are able, but being inflexible*
29 *and not recognizing the differences in our systems will not further that*
30 *cooperation.*

31 The SWMP shall include an ongoing program for gathering, maintaining, and using
32 adequate information to conduct planning, priority setting, and program evaluation
33 activities. The information and its form of retention shall include but not be limited
34 to:

- 35 a. No later than 2 years from the effective date each permittee shall map all known
36 municipal separate storm sewer outfalls and receiving waters, and structural
37 stormwater BMPs owned, operated, or maintained by the Permittee.
- 38 b. No later than 4 years from the effective date of this permit each permittee shall
39 map tributary conveyances, the associated drainage areas, and land use of all
40 municipal separate storm sewer outfalls with a 24" inches nominal diameter or

larger, or an equivalent cross-sectional area for non-pipe systems, and indicate type, material, and size where known.

c. No later than 4 years from the effective date of this permit each permittee shall map areas served by the Permittee's MS4 that discharge stormwater to groundwater.

d. Map(s) depicting existing land use

e. Map(s) depicting zoning.

f. No later than 2 years from the effective date each permittee shall establish, maintain and make available to the public, a data base, including at least the following information.

i. Precipitation records.

ii. Stormwater quality and quantity records.

iii. Water quality and physical characteristics of receiving water that may be impacted by stormwater.

g. Each Permittee shall make available to Ecology, upon request, all available GIS data layers depicting outfall locations, tributary conveyances, structural stormwater BMPs, and, if known, the associated drainage areas of 24" municipal separate storm sewer outfalls. GIS data shall be submitted in the format specified by Ecology at:
<http://www.ecy.wa.gov/services/gis/data/standards.htm>. Notification of updated GIS data layers shall be included in annual reports.

h. Upon request, and to the extent appropriate, Permittees shall provide mapping information to Co-Permittees and Secondary Permittees.

3. Coordination

Everything about this item is excessively intrusive, and exceedingly labor intensive. We have refined our work programs within the County to take care of the majority of problems we used to have in coordinating activities on behalf of permit requirements. Spending 6 months having meetings and arguing over vague language is not productive. The entire SWMP is designed to ensure compliance over the County structure. If items are not being done properly, it will show up in the reports, and Ecology can address it. Eliminate b.i.

It gets worse at the level of intergovernmental coordination in b.ii. As mentioned earlier in these comments, although you are not calling them "interlocal agreements" any longer, that is precisely what they are. Our count is at least 23 Secondary permittees (including 6 drainage districts), and even more if this includes smaller towns and cities with whom we share interconnected systems or waterbodies. Each agreement, by County Code, must be posed as an ordinance and taken through the County Council for formal adoption (with stops along the way at Planning Commission and Stormwater Management Advisory Board for

1 *their approval) . This would take a lot of lawyers, and a lot of staff time to*
2 *accomplish, and I don't think it would work any better than it works now. It*
3 *seems Ecology is forcing their workload as the State Environmental Agency*
4 *directly onto us, as mentioned before,, with no benefit to the environment. Based*
5 *on this amount of work, the timeframe is ludicrous as well. Eliminate this*
6 *requirement.*

7 *Please recognize that we already work with other entities through our watershed*
8 *councils and basin plans. This is the cooperative way to do things (with elected*
9 *officials willingly involved) and it works! Adding lawyers and a ridiculous time*
10 *frame into the process is not making stormwater cleaner. Please substitute*
11 *language stating that cooperation via Watershed councils or forums and basin*
12 *planning processes is adequate. And to boot, the Tribes participate in the*
13 *watershed groups—you have left them out of the intergovernmental part entirely,*
14 *yet they are EPA stormwater permittees, as are the big government installations*
15 *such as Fort Lewis and McChord AFB. We have a chief environmental officer*
16 *from Fort Lewis as Chairman of our Storm Water Advisory Board, so we are*
17 *already coordinating above and beyond your requirement without having*
18 *interlocal agreements.*

19 *Comments on integrated monitoring stand as before: for most monitoring of*
20 *mutual interest, a third party responsible.*

- 21 a. The SWMP shall include coordination mechanisms among Permittees, co-
22 Permittees, and secondary Permittees to encourage coordinated stormwater-
23 related policies, programs and projects within a watershed. The SWMP shall
24 also include coordination among departments within each jurisdiction to ensure
25 compliance with the terms of this permit.
- 26 b. Minimum Performance Measures:
- 27 i. No later than 6 months after the effective date of this permit, establish, in
28 writing, and begin implementation of, intragovernmental (internal)
29 coordination procedures to ensure compliance with the terms of this
30 permit.
- 31 ii. No later than 6 months after the effective date of this permit, establish, in
32 writing, and begin implementation of, intergovernmental coordination
33 procedures on stormwater management, including
- 34 • Coordination mechanisms clarifying roles and responsibilities to
35 ensure the control of pollutants between physically interconnected
36 MS3s.
 - 37 • Coordinating stormwater management activities, for *shared*
38 *waterbodies*, among Permittees, to avoid conflicting plans, policies
39 and regulations.
 - 40 • Coordination necessary to develop an integrated monitoring program.

1
2 4. Public Involvement and Participation

- 3 a. The SWMP shall provide ongoing opportunities for public involvement in the
4 decision making processes involving stormwater management programs and
5 priorities, through advisory councils, watershed committees, participation in
6 developing rate structures, stewardship programs, environmental activities, or
7 other similar activities.

8 *We already do this. Would you clarify whether we would still have to adopt a*
9 *process, since it appears that we already have one that works, via general public*
10 *meetings, evaluation and acceptance by our SWAB, and taking it through our*
11 *Planning Commission and County Council, as we are required to do?*

12 b. Minimum performance measures:

- 13 i. No later than 6 months after the effective date of this permit, adopt a
14 process to create opportunities for public participation in the decision
15 making processes involving the development, implementation and update
16 of the permittees SWMP. Each Permittee must develop and implement a
17 process for consideration of public comments on their SWMP.
- 18 ii. No later than 12 months after the effective date of this permit, begin
19 implementation of the public involvement program.
- 20 iii. Each Permittee must make their SWMP, the SWMP documentation
21 required under S7.A(1) and all submittals required by this permit,
22 including annual reports, available to the public on the permittees' website
23 or submitted in electronic format to the Department for posting on the
24 Department's website.

25 5. Controlling Runoff from New Development, Redevelopment and Construction Sites

26 *Pierce County is currently working on a manual equivalent to the amended*
27 *2001 Ecology manual. Our biggest concern relates to the differences in*
28 *thresholds (5,000 sq. ft. vs. 1 acre) between the Phase I and Phase II permittees.*
29 *Please refer to Christy Strand's comments in the Phase I meeting notes. It makes*
30 *no sense to have this difference. It has negative environmental effect, and*
31 *promotes economic inequity. Lower the value for Phase IIs to match that of the*
32 *Phase Is.*

- 33 a. The SWMP shall include a program to prevent and control the impacts of runoff
34 from new development, redevelopment, and construction activities. The
35 program shall apply to private and public development, including roads.
- 36 b. Minimum performance measures:
- 37 i. The Minimum Requirements, thresholds, and definitions in Appendix 1
38 (which is by this reference as if set forth fully herein), for new development,
39 redevelopment, and construction sites must be included in ordinance or other

1 enforceable documents adopted by the local government. More stringent
2 requirements may be used, and/or certain requirements may be tailored to
3 local circumstances through the use of basin plans or other similar water
4 quality and quantity planning efforts. Such local requirements and thresholds
5 must provide equal protection of receiving waters and equal levels of
6 pollution control as compared to Appendix 1.

7 ii. Adjustment and variance criteria equivalent to those in Appendix 1 must be
8 included.

9 iii. The local requirements must include a site planning process and BMP
10 selection and design criteria that, when used to implement the minimum
11 requirements on a site specific basis, will protect water quality, reduce the
12 discharge of pollutants to the maximum extent practical, and satisfy the state
13 requirement under chapter 90.48 RCW to apply all known, available,
14 reasonable methods of prevention, control and treatment (AKART) prior to
15 discharge. Permittees must document how the criteria and requirements will
16 protect water quality, reduce the discharge of pollutants to the maximum
17 extent practical, and satisfy the state AKART requirements.

18 Permittees who choose to use the site planning process, and BMP selection
19 and design criteria in the 2005 Stormwater Management Manual for Western
20 Washington, or an equivalent manual approved by the Department, may cite
21 this choice as their sole documentation to meet this requirement.

22 iv. The program must allow non-structural preventive actions and source
23 reduction approaches such as *Low Impact Development Techniques* (LID),
24 measures to minimize the creation of impervious surfaces, and measures to
25 minimize the disturbance of soils and vegetation.

26 v. Deadlines for and Review of Local Manual and Ordinances. No later than 12
27 months from the effective date of this permit, each Permittee must adopt a
28 local program that meets the requirements in S7C.5.a.i through iv., above.
29 Ecology review and approval of the local manual and ordinances is required.
30 To ensure compliance with the 12 month deadline, Permittees may use the
31 following review process:

32 (1) The Permittee submits draft enforceable requirements, technical
33 standards and manual to Ecology no later than 8 months after the
34 effective date of this permit. Ecology will review and provide written
35 response to the Permittee.

36 (2) If this review process is followed, the deadline for adoption of
37 enforceable requirements, technical standards and manual shall be
38 automatically extended by the number of calendar days that Ecology
39 exceeds a 60 day period for written response.

- 1 vi. No later than 12 months after the effective date of this permit, the program
2 must establish legal authority, through approval of new development, to
3 inspect private stormwater facilities and enforce maintenance standards.
- 4 vii. No later than 18 months after the effective date of this permit, the program
5 must include a process of permits, plan review, inspections, and
6 enforcement capability to meet the following standards for both private
7 and public projects, using *qualified personnel* (staff or qualified
8 contractors):
- 9 (1) Review all stormwater site plans for proposed development activities
10 that meet the thresholds in Appendix 1.
- 11 (2) Inspect prior to clearing and construction, all development sites that
12 are hydraulically near a sediment/erosion-sensitive feature or have a
13 high potential for sediment transport as determined through plan
14 review based on definitions and requirements in Appendix 2, which is
15 by this reference as if set forth fully herein.
- 16 (3) Inspect all permitted development sites during construction to ensure
17 proper installation and maintenance of required erosion and sediment
18 controls. Enforce as necessary based on the inspection. This
19 inspection may be combined with other inspections provided it is still
20 performed by qualified personnel (staff or contractors).
- 21 (4) Inspect all development sites upon completion of construction and
22 prior to final approval/occupancy to ensure proper installation of
23 permanent erosion controls and stormwater facilities/BMPs. Enforce
24 as necessary based on the inspection. Also, ensure a maintenance plan
25 is completed and responsibility for maintenance is assigned. This
26 inspection may be combined with other inspections provided it is still
27 performed by qualified personnel (staff or contractors).
- 28 (5) Compliance with the inspection requirements of S7.C.5.(b)vii.(2), (3),
29 and (4), above shall be determined by the presence of an established
30 inspection program designed to inspect all sites.
- 31 (6) Each Permittee shall track and maintain records of all inspections and
32 enforcement actions.
- 33 viii. No later than the effective date of this permit, the Permittee must provide
34 the "*Notice of Intent for Construction Activity*" and/or copies of the
35 "*Notice of Intent for Industrial Activity*" to representatives of proposed
36 new development and redevelopment. Permittees will continue to enforce
37 local ordinances controlling runoff from construction sites that also
38 require coverage under the Industrial Stormwater General Permit and/or
39 the Construction Stormwater General Permit.
- 40 ix. Each permittee must provide *adequate training for staff* involved in
41 Controlling Stormwater Runoff from New Development, Redevelopment,

and Construction Sites, including permitting, plan review, construction site inspections, and enforcement, to carry out the provision of this program component.

6. Structural Stormwater Controls

Pierce County already performs this function under the auspices of our Capital Improvement Program. This is updated yearly in the County 6 Year Capital Facilities Plan, as a result of need and via our basin planning process. CIP projects are prioritized for multiple benefit according to the criteria developed in our 2000 Basin Planning Guidance (Ecology has a copy), plus potential economic development benefit (added as a supplemental criteria to basin plans at the direction of the SWAB and County Council). Looking at the requirements here, we believe we already meet the minimum measures, as we have kept you up to date on our CIP in our annual reports under the 95 permit. We have developed a reasonable process with public input. We do not want to be put in a position of Ecology approval of our CIP program.

- a. The SWMP shall include a program to construct structural stormwater controls to address impacts to beneficial uses resulting from disturbances to watershed hydrology and stormwater pollutant discharges. This program shall consider impacts caused by stormwater discharges from areas of existing development, including runoff from highways, streets and roads owned or operated by the Permittee, and areas of new development, where impacts are anticipated as development proceeds. This program shall address impacts that are not adequately controlled by the other required actions of the SWMP, and shall identify necessary actions and an implementation schedule.

The program shall include the construction of projects such as regional flow control facilities, water quality treatment facilities, and retrofitting of existing flood control facilities. Permittees should also consider other means to address impacts from existing development, such as reduction of hydrologic changes through the use of on-site (infiltration and dispersion) stormwater management BMPs and site design techniques, habitat acquisition or restoration of forest cover and riparian buffers, for compliance with this requirement. Permittees may not use in-stream culvert replacement projects for compliance with this requirement.

b. Minimum Performance Measures:

- i. No later than 12 months after the effective date of this permit, each Permittee shall develop and begin implementing a Structural Stormwater Control program designed to control stormwater impacts that are not adequately controlled by the other required actions of the SWMP. The program shall include a description of projects and a construction schedule, for projects that are scheduled for implementation during the term of this permit. *We will provide you with the 6 year Capital Facilities Plan section that indicates which facilities we are planning to construct*

1 *over the permit term. However, we would request that compliance not be*
2 *measured based on the schedule. There are too many unknowns that can*
3 *affect a CIP schedule, such as Corps review (they didn't approve a project*
4 *in time even though we had given them many months to do so),*
5 *emergencies (floods, which redirect resources and money), Council*
6 *changes (which may change priorities), outlandish bids in a bull market*
7 *for construction, unwillingness of property owners to sell, and myriad*
8 *other hurdles. We are attempting to establish contingency projects that*
9 *can be brought in quickly in case others do not get constructed in the time*
10 *frame we planned on.*

- 11 ii. Each Permittee shall include a description of the Structural Stormwater
12 Control Program in the written documentation of their SWMP that must
13 be submitted with the first year annual report. The description of the
14 Structural Stormwater Control Program must include the following:
- 15 • The goals that the Structural Stormwater Control Program are intended
16 to achieve.
 - 17 • The planning process used to develop the Structural Stormwater
18 Control Program, including: the geographic scale of the planning
19 process, the issues and regulations addressed, the steps in the planning
20 process, the types of characterization information considered, the
21 amount budgeted for implementation, and the public involvement
22 process.
- 23
- 24 iii. For individual projects, provide the following information:
- 25 • The estimated pollutant load reduction that will result from each
26 project designed to provide stormwater treatment.
 - 27 • The expected outcome of each project designed to provide flow
28 control.
 - 29 • Any other expected environmental benefits.
- 30
- 31 iv. Information about the Structural Stormwater Control Program shall be
32 updated with each annual report.
- 33

34 7. Source Control Program

35 *See notes from the Phase I meeting. We are assuming, as was the case with the*
36 *Legal Authority section, that we do not have to redo or re-prove those sections*
37 *that we have already done, but to move on with enhancements to our program.*
38 *This section reads much too prescriptively for those of us already far along in our*
39 *inspections programs, so again, clarifying this with language in the fact sheet*
40 *would be a good thing to do.*

It also may be advisable to combine this Section with the operation and maintenance section. We do not typically do source control inspections without looking at the operation and maintenance of a site. Having source control inspections once every 8 years, and O and M inspections every year is not a practical proposal. A lot of changes to a site or processes can occur in 8 years, so that is not frequent enough—a maximum of 5 years, perhaps, unless our professional judgment deems that more frequent inspection is necessary (in conjunction with O and M inspection). This is one area where it should really be left up to the discretion of the local program in terms of observed need, level of cooperation, history, and proximity to sensitive areas and waterbodies. Perhaps the menu items could read: Source control and O and M inspections on private parcels shall occur a minimum of once every 5 years, unless an established local program determines that more frequent inspection is necessary. Sites containing treatment units, including type 2 spill control, would need more frequent inspection.

- a. The SWMP shall include a program to reduce pollutants in runoff from areas that discharge to municipal separate storm sewers owned or operated by the Permittee. The program shall include:
 - i. Requiring application of operational and structural source control BMPs, and, if necessary, treatment BMPs to pollution generating sources associated with existing land uses and activities.
 - ii. Inspections of pollutant generating sources at commercial, industrial and multifamily properties to ensure implementation of BMPs to control pollution discharging into municipal separate storm sewers owned or operated by the Permittee.
 - iii. Application and enforcement of local ordinances at all applicable sites, including those with industrial stormwater general NPDES permit coverage. Municipalities may refer stormwater discharge problems associated with violations of local ordinances only after implementing progressive enforcement as required in S7.C.7.b.iv, below. Municipalities may not refer stormwater discharge problems associated with industrial NPDES Permittees to Ecology if the Permittee has local ordinances that impose stricter standards than imposed through the permit issued by Ecology.

The last sentence of the paragraph above is fascinating. The way it is worded, if we do call you to refer a problem, then we are in violation of the permit condition!! It is a ridiculous sentence, and needs to be removed from the permit. Once again, it attempts to transfer Ecology's responsibility onto the County, with no formal agreement or transfer of authority. It is especially ironic since we are not even notified of the issuance of such permits in most instances, and therefore have no say at all in what is being allowed to be discharged into our system.

1 Permittees that are in compliance with the terms of this permit will not be held
2 liable by Ecology for water quality standard violations caused by industries covered
3 under an NPDES permit issued by Ecology. *So, if we are out of compliance with*
4 *another, unrelated part of the permit, we will be held liable?? Once again,*
5 *industries permitted by Ecology are Ecology's responsibility for allowable*
6 *discharge. We should never be held responsible for what they discharge if another*
7 *NPDES permit is issued.*

- 8 iv. ~~Reduction of~~ **Program to reduce** pollutants associated with the application of
9 pesticides, herbicides, and fertilizer discharging into municipal separate
10 storm sewers owned or operated by the Permittee. *Does this apply only to*
11 *properties owned by the county? Beyond some education, this is one of*
12 *those items that we can have very little impact on. These items are legally*
13 *available, and allowed to be applied by citizens at a rate consistent with*
14 *package instructions. Could we have an ordinance to ban these items in*
15 *particular watersheds? Yes, as Whatcom Co. has done. But that does not*
16 *take it out of the stores.*

17 b. Minimum Performance Measures for Source Control Program:

18 *We will be using Ecology BMPs, with just the structure of the manual*
19 *reformatted for the BMP section, and it will be submitted with the rest of*
20 *our proposed manual.*

- 21 i. No later than 12 months after the effective date of this permit, adopt and
22 begin enforcement of an ordinance requiring the application of source
23 control BMPs for pollutant generating sources associated with existing land
24 uses and activities (See Appendix 3, to identify pollutant generating
25 sources). The local source control requirements must include operational
26 and structural source control BMPs that, when used on a site specific basis,
27 will protect water quality, reduce the discharge of pollutants to the
28 maximum extent practical, and satisfy the state requirement under chapter
29 90.48 RCW to apply all known, available, reasonable methods of
30 prevention, control and treatment (AKART) prior to discharge. Permittees
31 must document the stormwater source control BMP selection process for
32 different urban land uses, the types of BMPs and design criteria for those
33 BMPs, the technical basis and an assessment of how the practices will
34 protect water quality, reduce the discharge of pollutants to the maximum
35 extent practical, and satisfy the state AKART requirements. Permittees
36 may choose to use the source control BMPs in Volume IV of the 2001
37 Stormwater Management Manual for Western Washington. If the
38 demonstration approach is chosen, the Permittee must submit the proposed
39 source control program and all necessary documentation to Ecology for
40 review, no later than 9 months after the effective date of this permit. If
41 Ecology does not request changes within 30 days, the proposed source
42 control BMPs are considered approved.

1 Operational source control BMPs shall be required for all pollutant
2 generating sources. Structural source control BMPs shall be required for
3 pollutant generating sources that cause an illicit discharge or other pollution
4 problem, including: causing or contributing to a violation of surface water,
5 ground water, or sediment management standards; nuisance; or threat to
6 public health and safety, because of inadequate stormwater controls.
7 Implementation of source control requirements may be done through
8 education and technical assistance programs, provided that formal
9 enforcement authority is available to the Permittee and is used as necessary.

- 10 ii. No later than 12 months after the effective date of this permit, compile a list
11 of existing commercial, multifamily, industrial and government sites
12 which are potentially pollution generating (see Appendix 3 for identifying
13 sites). The list shall be updated no later than 180 days prior to the
14 expiration date of this permit. *Quite frankly, we have done this before,*
15 *and the hardest part of our task has been getting the business lists from*
16 *the state DOR, and the NPDES permittees from DOE. There should be a*
17 *provision in here for how quickly state government will respond, such as 6*
18 *weeks from time of request. In looking through Appendix 3, we are struck*
19 *with how many of these are really pointless. Hospitals, for instance, are*
20 *covered by strict rules regarding handling of infectious waste and*
21 *hazardous wastes. Medical and dental labs would also have mercury and*
22 *silver requirements mandated by state law. Railroads simply do not let*
23 *you into rail yards to do inspections because of the danger factor.*
24 *Airfields, shipyards, woodtreating, etc. are all businesses that require*
25 *NPDES permits to be issued BY THE STATE. Do not transfer your*
26 *workload onto the counties and cities. The permit wording says that if we*
27 *have requirements greater than DOE, then we must inspect. What if our*
28 *requirements are equivalent to DOE? Does DOE inspect? Based on*
29 *workload and cost, what incentive is there for us to promulgate more*
30 *stringent regulations at the local level? We think Ecology needs to quit*
31 *handing its responsibilities down unless there is a formal, legal agreement*
32 *that both parties are willing to agree to, and Ecology is willing to pay for*
33 *our services.*

34 *Travel agencies??? Why would we need to inspect travel agencies???*
35 *The list needs to be much more realistic.*

36 *We have no authority to inspect federal government sites. They do not*
37 *even pay a stormwater fee(they refuse to). We can barely get on to Fort*
38 *Lewis or McChord anymore, due to heightened security. They are*
39 *permitted via EPA, so we do not have authority. Even post offices have*
40 *told us they are federal installations, and do not require local permits.*
41 *The same may be true for tribal sites. Any reference to inspecting*
42 *“government” sites needs to be clarified to leave out federal sites, which*

1 *means that we would just be inspecting our own sites(and state sites???),*
2 *which is feasible.*

- 3 iii. Starting no later than 24 months after the effective date of this permit,
4 conduct an inspection program for all the listed sites, with adequate
5 enforcement capability to ensure implementation of source control BMPs in
6 accordance with the ordinance required in S7.C.8.b.i., above. 60% of the
7 total of the listed properties must be inspected within 5 years of the effective
8 date of the permit, provided that a portion of the inspections must be
9 conducted during each subsequent year of the permit term. The inspection
10 program shall be designed to inspect all sites, to the extent allowable under
11 state law, once every 8 years. Adjust the inspection program as needed to
12 incorporate new sites added to the list and reflect sites already inspected.
- 13 iv. No later than 24 months after the effective date of this permit, each
14 Permittee shall implement a progressive enforcement policy to ensure that
15 facilities are brought into compliance with stormwater requirements within a
16 reasonable time period as specified below:
- 17 (1) In the event that a Permittee determines, based on an inspection
18 conducted above, that a site has failed to adequately implement all
19 necessary BMPs, that Permittee shall take progressive enforcement
20 action which, at a minimum, shall include a follow up inspection
21 within 4 weeks from the date of the initial inspection.
- 22 (2) When a Permittee determines that a facility has failed to adequately
23 implement BMPs after a follow-up inspection, that Permittee shall
24 take further enforcement action as established through authority in
25 its municipal code and ordinances, or through the judicial system.
- 26 (3) Each Permittee shall maintain records, including documentation of
27 each site visit, inspection reports, warning letters, notices of
28 violations, and other enforcement records, demonstrating a good
29 faith effort to bring facilities into compliance. Each permittee shall
30 also maintain records of sites that are not inspected because the
31 property owner denies entry.
- 32 (4) A Permittee may refer violations of local ordinances to Ecology
33 provided that the Permittee has made a good faith effort of
34 progressive enforcement. At a minimum a Permittee's good faith
35 effort must include documentation of:
- 36 • Two follow-up inspections, and
37 • Two warning letters or notices of violation
- 38 v. No later than 12 months after the effective date of this permit, adopt and
39 implement policies and procedures to reduce pollutants associated with
40 the application of pesticides, herbicides, fungicides, and fertilizer on all

1 public property owned or managed by the Permittee, including parks and
2 road right-of-ways. The program shall include the following, at a
3 minimum:

4 *Ecology does not have the authority to require these actions, with*
5 *perhaps the exception of tracking fertilizers. Pesticides, herbicides, and*
6 *fungicides are all regulated by the Department of Agriculture or EPA*
7 *(via labeling). We understand the Ecology does issue permits for*
8 *aquatic pesticide application for nuisance control (via the Talent*
9 *decision), but that EPA does not think NPDES permits are required for*
10 *that. We ensure that contractors and personnel are properly certified*
11 *by WDOA, and that no involvement from Ecology is necessary for*
12 *terrestrial applications. Municipal applications pale in comparison to*
13 *private applications, and requirement for education via a number of*
14 *partners is sufficient. We have cooperated in the past with reporting*
15 *amounts applied by our Parks Department, and reported the program*
16 *used by Roads contractor, but we do not want any further inroads into*
17 *an arena beyond your authority, with stricter requirements than FIFRA!*
18 *Eliminate this section. All that is needed is a statement: Permittees or*
19 *their contractors shall apply terrestrial pesticides, herbicides and*
20 *rodenticides in a manner consistent with labeling and FIFRA*
21 *regulations, and applicators shall have all applicable licenses required*
22 *by the Washington State Department of Agriculture. In the event of*
23 *aquatic pesticide usage, additional permits will be obtained from the*
24 *Department of Ecology or the Department of Agriculture, as*
25 *appropriate. The permittees may also offer a "Do Not Spray" program,*
26 *allowing property owners to opt to manually or mechanically maintain*
27 *publically owned ditches or shoulders adjacent to their property to*
28 *avoid the use of chemicals.*

- 29
- 30 (1) Identify and quantify all pesticides, herbicides, fungicides, and
31 fertilizer used by the Permittee;
- 32 (2) Identify application practices of each listed product: location, timing,
33 application rates;
- 34 (3) Ensure no application of pesticides, herbicides, fungicides, or
35 fertilizers immediately before, during or after a rain event, or when
36 water is flowing off the area to be applied;
- 37 (4) Ensure that staff applying pesticides or herbicides are certified by the
38 Washington State Department of Agriculture;

(5) Implement procedures to use and manage herbicides, pesticides, fungicides, and fertilizer consistent with the adopted source control BMPs.

- vi. Provide a minimum of two training sessions regarding the source control ordinance, inspection procedures and source control BMPs, for inspection and other appropriate field staff, to facilitate adequate implementation of the source control program. The first training shall be conducted no later than 24 months after the effective date of this permit. The second training shall be conducted no later than 48 months after the effective date of this permit.

8. Illicit Connections and Illicit Discharges Detection and Elimination

- a. The SWMP shall include an ongoing program to detect, remove and prevent illicit connections and illicit discharges, including spills, into the municipal separate storm sewers owned or operated by the Permittee. The program shall include:
 - i. Effectively prohibiting all types of illicit discharges to the municipal separate storm sewers owned or operated by the Permittee other than those authorized under a separate NPDES permit. The categories of non-stormwater discharges listed in Appendix 4 must be addressed only if identified as a contributor of pollution to the MS3s owned or operated by the Permittee. As necessary, the Permittee(s) shall incorporate appropriate control measures in the stormwater management program to ensure the non-stormwater discharges listed in Appendix 4 are not sources of pollutants to waters of the state.
 - ii. Detecting and eliminating illicit connections to municipal separate storm sewers owned or operated by the Permittee.
 - iii. On-going identification of illicit discharges into the municipal separate storm sewer system, through inspections, monitoring and complaint response.
 - iv. Preventing, responding to, and cleaning up illicit discharges into the municipal separate storm sewers owned or operated by the Permittee.
- b. Minimum Performance Measures:
 - i. No later than the effective date of this permit, each Permittee must continue implementing an on-going program to prevent, identify and respond to illicit connections and illicit discharges. The program shall include adopting procedures for reporting and correcting or removing illicit connections, spills and other illicit discharges when they are suspected or identified. The program shall also include procedures for controlling pollutants entering the MS4 from an interconnected, adjoining MS4. *The preceding sentence once again transfers Ecology responsibilities onto the County. As we stated earlier, we will work with the cities if a problem arises, but ultimately, it is*

Ecology who must enforce. Illicit Connections and illicit discharges shall be identified through field screening, inspections, complaints/reports, construction inspections, maintenance inspections, source control inspections, and/or monitoring information, as appropriate.

- ii. Each Permittee shall provide appropriate training for municipal field staff who are responsible for identification, investigation, termination, cleanup, and reporting illicit discharges, including spills, improper disposal and illicit connections. Training shall be completed no later than 12 months after the effective date of this permit. Refresher training shall be conducted on an annual basis thereafter. *Combine this with Source Control training! This permit is rife with deadlines, and combining things that are logical would help that. Also, if Erosion and Sediment control certifications are required only once every 3 years, why would this be done annually? It could be every 3 years as well.*
- iii. All municipal field staff, which as part of their normal job responsibilities might come into contact with or otherwise observe an illicit discharge or illicit connection to the storm sewer system shall be trained on the identification of an illicit discharge/connection and on the proper procedures for reporting the illicit discharge/connection. Initial training shall be completed no later than two years from the effective date of this permit. Permittees shall conduct refresher training on an annual basis thereafter. *Should be combined with training above, not separated out, eliminate some of these deadlines!!*
- iv. Each Permittee shall initiate a program to develop and maintain a map of all connections to the municipal separate storm sewer authorized or allowed by the permittee. Each Permittee shall map connections to the municipal separate storm sewer according to the following schedule: *Mapping ALL of the connections is not possible, and sets us up for failure. When we GPS connections, we do 8" and above, a decision made long ago. Any property with a flex line into a ditch is not going to get counted (but we would respond to any complaints or problems there!). Please modify this with a pipe size of 8" or above. We have most of the older connections in the County completed, and are in a constant process of adding new connections into the data base. In a County, this is a huge job.*

City of Seattle and City of Tacoma: second year annual report

Snohomish, King, Pierce and Clark Counties: one half the area of the County within urban growth boundaries and urbanized areas in the 4th year annual report

- v. Each Permittee shall continue to provide a publicly listed water quality citizen complaints/reports telephone number. This program shall be in place no later than the effective date of this permit. Complaints shall be responded to in accordance with S7.C.8.b.vii. and ix., below.

- 1 vi. Each Permittee shall conduct on-going screening for illicit connections,
2 including indicator monitoring, and tracking discharges to the source. The
3 Permittee shall conduct an ongoing program to identify illicit connections.
- 4 (1) City of Seattle and City of Tacoma shall schedule the screening for
5 illicit discharges such that all of the City's municipal separate storm
6 sewers are screened at least once during the term of this permit.
- 7 (2) Snohomish, King, Pierce and Clark Counties shall schedule the
8 screening program such that all the municipal separate storm sewers
9 located in one half the area of the County within urban growth
10 boundaries and urbanized areas are screened during the term of this
11 permit. *As we have stated before, field screening has not been a*
12 *highly useful exercise, especially in a county that has mainly ditch*
13 *and creek systems. Looking at outfalls has never resulted in*
14 *enforcement upstream. Our tools of complaint response, and*
15 *business inspection have been the most valuable tools for detecting*
16 *and curtailing illicit discharges. Most of the dry weather*
17 *discharges are groundwater or watering runoff. Our dollars are*
18 *better spent in programs such as inspection that address specific*
19 *problems, rather than chasing potential problems that may not be*
20 *there. Also, this says a screening program for the MS4. Do you*
21 *envision something other than outfall screening here? That would*
22 *be even worse in terms of manpower lost to other activities. A good*
23 *inspection program, as we have, does a lot more for water quality*
24 *and education than this screening. It should be eliminated in entities*
25 *that have an active inspection program, and who are doing*
26 *macroinvertebrate analysis. These programs will identify problems*
27 *better than the weak tests and observations in the documents cited*
28 *below, particularly in a county. Perhaps you can draft that as a*
29 *menu option: Routine illicit discharge screening will not be*
30 *necessary in local programs containing adequate programs in both*
31 *industrial/commercial inspection, and macroinvertebrate monitoring*
32 *programs. Local programs will still respond to complaints or*
33 *reports of illicit discharges, and enforce regulations in stopping*
34 *them, including monitoring and tracing as necessary.*
- 35 vii. Screening for illicit discharges shall be conducted using one or more of the
36 methods listed below:
- 37 (1) The field screening method in 40 CFR 122.26(d)(1)(iv).
- 38 (2) Illicit Discharge Detection and Elimination: A Guidance Manual for
39 Program Development and Technical Assessments, Center for
40 Watershed Protection, October 2004.
- 41 (3) Other alternative methods that have been approved by Ecology.
- 42 viii. Response to Illicit Connections

(1) Investigation: Upon discovery or upon receiving a report of a suspected illicit connection, Permittees shall initiate an investigation within 21 days, to determine the source of the connection, the nature and volume of discharge through the connection, and the responsible party for the connection.

(2) Termination: Upon confirmation of the illicit nature of a storm drain connection, Permittees shall ensure termination of the connection within 180 days, using enforcement authority as needed.

- ix. Each Permittee, no later than 6 months after the effective date for this permit, shall develop and implement procedures to prevent, respond to and clean up spills and improper disposal into municipal separate storm sewers owned or operated by the Permittee. Under these procedures, each Permittee shall investigate, within 7 days on average, any complaints/reports or monitoring information that indicates a potential illicit discharge, including a spill or illegal dumping. Permittees shall also investigate as soon as possible, within 24 hours, those problems/violations judged to be urgent or severe, or reported as emergencies. We are disturbed by the “clean up spills” language that keeps appearing in this permit. Is it your intent to have us expand into spill clean up other than the minor spills we do now? We do not want to have this responsibility expanded, as it has always been an Ecology responsibility. Our procedure is to use fire departments or roads to block the area, or spread sand if it is petroleum product on the road, and notify Emergency Management, who then notifies Ecology. If private sites are involved, we notify Ecology and then work with the site owner and any private company they hire to get the portion of the MS4 affected cleaned back to County standards. This arrangement has been working well.
- x. Each Permittee shall track and maintain records of the illicit discharge detection and elimination program, including documentation of inspections, complaint/spill response and other enforcement records.

9. Operation and Maintenance Program

As discussed above in the Source Control section, we think these two sections could be mostly combined, at least for commercial, industrial and multifamily inspections, since any inspections we do for source control coincide with O and M inspections, plus much of the rest of this involves source control of pollutants potentially generated by O and M activities—still Source Control.

The tone of this section is overly prescriptive. Please refer to Dan Wrye’s comments on the last page of the Phase 1 meeting notes dated 7-13-05. This section is truly most disturbing in the permit, second only to the Monitoring section. There are more than 14 separate deadlines proposed in the 5 year permit cycle just for this section alone. This section really points out the inadequacy of a “one size

fits all” permit, and the differences between the limited, manageable geography of a city in contrast to 1,679 square miles of County. We simply cannot inspect 100% of structures and catchbasins each year. The personnel requirements would be enormous, and of dubious benefit, especially for flow control structures. If a flow control structure isn’t working, it typically floods houses, or a road. Either way, we hear about it and either repair it if it is ours, or require repairs and maintenance if it is private. Our current estimates from GIS information indicate 1235 private control structures, and 649 public control structures. This does not include over 2,800 public drywells (yes, we realize you have removed them from this permit, but they still require attention to protect water quality), 111 vaults, and over 30,000 public and private catchbasins(16,841 public and 13, 284 private as of August 10, 2005). We suggest that you recognize that Road Maintenance is being done via the Road Plank worked out in Tri-County (with Ecology at the table) and approved by NOAA Fisheries.

Dan Wrye’s comment on the inspection of 100% of facilities serves to really put this section in perspective: “100% facilities inspections unattainable, unrealistic, unnecessary and is far and away greater frequency than Ecology conducts for process wastewater facilities”. That is a sobering comment. Which type of discharge has the greater potential to harm the environment and human/animal health? Do not give stormwater facilities greater requirements than wastewater facilities, it will only serve to embarrass Ecology.

The County Public Works and Utilities Department is currently working on a detailed Asset Management System to further refine condition assessment of infrastructure, and determine better maintenance frequencies and operational procedures. It will take longer than the time frames listed here, but will serve to help us develop better tools for coping with an ever-increasing maintenance workload.

- a. The SWMP shall include a program to conduct maintenance activities that prevent or reduce stormwater impacts. The program shall include:
 - i. Maintenance standards and programs to ensure proper and timely maintenance of public and private stormwater facilities. *Tri-County*
 - ii. Practices for operating and maintaining public streets, roads, and highways to reduce stormwater impacts. *Tri-County*
 - iii. Policies and procedures to reduce pollutants associated with the application of pesticides, herbicides, and fertilizer by the Permittee’s agencies or departments. *As discussed above in Source Control, not Ecology’s authority unless application is to water—leave to Department of Agriculture.*
 - iv. Practices for reducing stormwater impacts from *heavy equipment maintenance or storage yards, and from material storage facilities.*
- b. Minimum Performance Measures:

- 1 i. Maintenance Standards. No later than 12 months after the effective date of
2 this permit, each Permittee must establish maintenance standards that are as
3 protective or more protective than those specified in Chapter 4 of Volume V
4 of the 2005 Stormwater Management Manual for Western Washington. *Tri*
5 *County for roads maintenance.*

6 The facility-specific maintenance standards are intended to be conditions
7 for determining if maintenance actions are required as identified through
8 inspection. They are not intended to be measures of the facility's required
9 condition at all times between inspections. Exceeding these conditions at
10 any time between inspections and/or maintenance does not automatically
11 constitute a violation of these standards. However, based upon inspection
12 observations, the inspection and maintenance schedules shall be adjusted to
13 minimize the length of time that a facility is in a condition that requires a
14 maintenance action. These standards are violated when an inspection
15 identifies a required maintenance action, and that action is not performed in
16 a timely manner, for example, within 90 days for typical maintenance,
17 within 6 months for revegetation, and within 1 year for maintenance that
18 requires capital construction of less than \$25,000. *Are these examples, or*
19 *requirements. Very specific for examples. Delete this section, and leave to*
20 *ordinances you are requiring in other parts of this permit, which will vary*
21 *by permittee and their governmental system.*

- 22 ii. Maintenance of stormwater facilities regulated by the Permittee

23 (1) No later than 6 months after the effective date of this permit, each
24 Permittee shall update existing ordinances or other enforceable
25 documents requiring maintenance of all permanent stormwater
26 treatment and flow control facilities regulated by the Permittee, in
27 accordance with maintenance standards established under S7.C.9.b.i,
28 above. *Change "update" to "evaluate", and lengthen the time*
29 *frame. If we do need to make changes, it takes a lot longer than 6*
30 *months, and with all the other deadlines in this permit, there is*
31 *already too much to do. If our ordinance doesn't need updating,*
32 *then this wording puts us in violation of this section.*

33 (2) No later than 12 months after the effective date of this permit, each
34 Permittee shall develop and implement an initial inspection schedule
35 for all stormwater treatment and flow control facilities regulated by
36 the Permittee that ensures inspection of each facility at least once
37 during the term of this permit to enforce compliance with adopted
38 maintenance standards as needed based on the inspection. *Is a*
39 *catchbasin a stormwater treatment system? With a downturn? Is it*
40 *a flow control facility (it is not defined as such by us)? Referring to*
41 *the numbers stated earlier for the number of structures we control,*
42 *this is not possible.*

- 1 (3) No later than 48 months after the effective date of this permit, each
2 Permittee shall develop an on-going inspection schedule for
3 implementation after the initial schedule to ensure annual inspections
4 of all stormwater treatment and flow control facilities regulated by
5 the Permittee. The annual inspection schedule may be changed to a
6 lesser or greater frequency of inspection, as appropriate to ensure
7 compliance with maintenance standards, based on maintenance
8 records of double the length of time of the proposed inspection
9 frequency. *As discussed above, just not possible due to physical*
10 *size of County, and huge number of structures. Not even the*
11 *proposed inspection schedule change referred to in the last sentence*
12 *is possible. We need the relief up front, as indicated in the language*
13 *given for iii.3 below. Local programs and personnel are the experts*
14 *in our system, and we want to keep our system operating and*
15 *functioning. We are the best stewards of our system.*
- 16 (4) No later than 24 months after the effective date of this permit each
17 Permittee shall manage maintenance activities to inspect all new
18 permanent stormwater treatment and flow control facilities in new
19 residential developments every 6 months during the period of
20 heaviest house construction (i.e., 1 to 2 years following subdivision
21 approval) to identify maintenance needs and enforce compliance
22 with maintenance standards as needed.
- 23 (5) Compliance with the inspection requirements of S7.C.9.b.ii.(2),(3),
24 and (4), above, shall be determined by the presence of an established
25 inspection program designed to inspect all sites. *As above, cannot*
26 *inspect all sites.*

27 iii. Maintenance of stormwater facilities owned or operated by the Permittee

- 28 (1) No later than 24 months after the effective date of this permit each
29 Permittee shall begin implementing a program to inspect all
30 stormwater treatment and flow control facilities annually and take
31 appropriate maintenance action in accordance with adopted
32 maintenance standards. The annual inspection schedule may be
33 changed to a lesser or greater frequency of inspection as appropriate
34 to ensure compliance with maintenance standards based on
35 maintenance records of double the length of time of the proposed
36 inspection frequency. *Cannot inspect all sites, see language below in*
37 *3.*
- 38 (2) No later than 24 months after the effective date of this program each
39 Permittee shall begin implementing a program to conduct spot
40 checks of potentially damaged treatment and flow control facilities
41 after major storm events. *What constitutes a major storm event?*
42 *This needs to be defined. Our experience is that if there is some type*
43 *of damage that alters flow, people will call in and report it, or, our*

1 *maintenance personnel already know about structures that are*
2 *particularly vulnerable, and will check them. We would emphasize*
3 *that we know our systems well, and know how to take care of them.*
4 *Prescriptiveness at this level is not necessary. If a storm that large*
5 *occurs, river levee repair to save towns and lives would be the*
6 *priority. We are not going to let our infrastructure be damaged or*
7 *remain damaged if we can avoid it! If spot checks indicate*
8 widespread damage/maintenance needs, inspect all stormwater
9 treatment and flow control facilities that may be affected. Conduct
10 repairs or take appropriate maintenance action in accordance with
11 maintenance standards established under S7.C.9.b.i, above, based on
12 the results of the inspections.

- 13 (3) Compliance with the inspection requirements of S7.C.9.b.iii.(1) and
14 (2), above, shall be determined by the presence of an established
15 inspection program designed to inspect all sites. *Again, inspecting*
16 *all sites is not an option, based on sheer numbers and the physical*
17 *size of the County. An option might be: Inspected on a schedule*
18 *developed by qualified, experienced County personnel, taking into*
19 *account mapping of areas of greatest concentration of new*
20 *development, sensitivity and proximity of nearby waterbodies, or*
21 *presence of TMDL waterbody. The same applies to catch basin*
22 *maintenance below.*

23 iv. Catch Basin Maintenance

- 24 (1) No later than 24 months after the effective date of this permit each
25 Permittee shall begin implementing a program to annually inspect
26 catchbasins and inlets owned or operated by the Permittee.
27 Inspections may be conducted on a “circuit basis” whereby a
28 sampling of catchbasins and inlets within each circuit is inspected to
29 identify maintenance needs. Include in the sampling an inspection of
30 the catchbasin immediately upstream of any system outfall. Clean
31 all catchbasins within a given circuit at one time if the inspection
32 sampling indicates cleaning is needed to comply with maintenance
33 standards established under S7.C.9.b.i, above. As an alternative to
34 inspecting catchbasins on a “circuit basis,” the Permittee may inspect
35 all catchbasins, and clean only catchbasins where cleaning is needed
36 to comply with maintenance standards. The disposal of decant
37 water shall be in accordance with the requirements in Appendix 7,
38 which is by this reference as if set forth fully herein. *We already*
39 *clean by circuit, but still not possible to do all circuits each year.*
- 40 (2) The Permittee shall require cleaning of private catchbasins and inlets
41 whenever they are found to be out of compliance with adopted
42 maintenance standards.

v. Records of inspections and maintenance or repair activities conducted by the Permittee shall be maintained.

vi. Establish practices to reduce stormwater impacts associated with runoff from public parking lots, public streets, public roads, highways, and road maintenance activities within 12 months of the effective date of this permit.

For this section, and the catchbasin section (any of the roads maintenance portion), the following should be added: For those entities adopting the Road Maintenance Practices developed by the Tri-County ESA partnership and in cooperation with the Department of Ecology, and approved by NOAA Fisheries, implementation of those practices shall be deemed full compliance with the road maintenance practices portion of this permit.

Implementation of practices shall begin no later than 18 months after the effective date of this permit, and continue on an ongoing basis throughout the term of the permit. The following activities must be addressed:

- (1) Pipe cleaning
- (2) Cleaning of culverts that convey stormwater in ditch systems
- (3) Ditch maintenance
- (4) Street cleaning
- (5) Road repair and resurfacing, including pavement grinding
- (6) Snow and ice control
- (7) Utility installation
- (8) Maintaining roadside areas, including vegetation management.
- (9) Dust control
- (10) Pavement striping maintenance

vii. No later than 12 months after the effective date of this permit each Permittee shall establish and implement policies and procedures to reduce pollutants in discharges from all lands owned or maintained by the Permittee, including but not limited to: parks, open space, road right-of-ways, maintenance yards, and at stormwater treatment and flow control facilities. These policies and procedures must address, but are not limited to: *Most of these items are in the Manual in the Source Control and BMP sections. Why is it being made a separate requirement here? Delete this section entirely, and say will follow Manual.*

- Application of fertilizer, pesticides, and herbicides, including the development of an Integrated Pest Management Program *Not an Ecology function*
- Sediment and erosion control
- Landscape maintenance and vegetation disposal

- Trash management
- Building exterior cleaning and maintenance

- viii. Conduct a minimum of 2 training sessions, during the term of the permit, for appropriate employees of the Permittee whose construction, operations or maintenance job functions may impact stormwater quality. Training shall address the importance of protecting water quality, the requirements of this permit, operation and maintenance standards, inspection procedures, selecting appropriate BMPs, ways to perform their job activities to prevent or minimize impacts to water quality, and procedures for reporting water quality concerns, including potential illicit discharges. The first training session shall be completed no later than 2 years after the effective date of this permit; the second training session shall be completed no later than the end of the permit term.
- ix. Develop and implement a Stormwater Pollution Prevention Plan (SWPPP) for all *heavy equipment maintenance or storage yards*, and material storage facilities owned or operated by the Permittee, that are not covered under the Industrial Stormwater General permit. The SWPPP is a documented plan to implement measures to identify, prevent, and control the contamination of discharges of stormwater to surface or ground water. The SWPPPs must be developed within 18 months of the effective date of this permit. Implementation of non-structural BMPs shall begin immediately after the pollution prevention plan is developed. A schedule for implementation of structural BMPs shall be included in the SWPPP. Generic SWPPs that can be applied at multiple sites may be used to comply with this requirement. The SWPPP shall include periodic visual observation of stormwater outfalls and receiving water in close proximity of known stormwater outfalls, during a storm event, to evaluate the effectiveness of BMPs. *This is a good section!*

10. Education Program

- a. The SWMP shall include an education program aimed at residents, businesses, industries, elected officials, policy makers, planning staff and other employees of the Permittee. The goal of the education program is to reduce or eliminate behaviors and practices that cause or contribute to adverse stormwater impacts. An education program may be developed locally or regionally.
- b. Minimum Performance Measures:
 - i. No later than 12 months after the effective date of this permit each Permittee shall implement or participate in an education program that uses different types of media (brochures alone are not adequate), and targets a wide range of interest groups to provide education on the topics listed in iii, below.

- 1 ii. The education program shall address the following topics and target
2 audiences:
- 3 (1) Provide education opportunities for all audiences about the importance
4 of improving water quality, reducing impervious surfaces and
5 protecting beneficial uses of waters of the state, about potential
6 impacts caused by stormwater discharges, and methods for avoiding,
7 minimizing, reducing and/or eliminating the adverse impacts of
8 stormwater runoff.
- 9 (2) Provide and encourage participation in environmental stewardship
10 activities.
- 11 (3) Provide information to the general public about actions individuals can
12 take to improve water quality and reduce impervious surfaces (e.g.,
13 lawn care with less fertilizer and pesticides, more use of native
14 vegetation for landscaping, proper disposal of pet wastes, etc.).
- 15 (4) Provide information to the general public on proper use and disposal
16 of pesticides, herbicides, and fertilizers.
- 17 (5) Provide information to engineers, construction contractors, developers,
18 development review staff, and land use planners on technical
19 standards, the development of stormwater site plans and erosion
20 control plans, and BMPs for mitigating contaminated runoff and the
21 quantity of runoff from development sites.
- 22 (6) Provide information to engineers, contractors, developers, and the
23 public on land development practices and non-structural BMPs, such
24 as Low Impact Development, that eliminate, avoid, or minimize
25 adverse stormwater impacts.
- 26 (7) Provide information to explain the definition and impacts, and promote
27 removal of illicit discharges.
- 28 (8) Provide information to promote proper management and disposal of
29 toxic materials (e.g. used oil, batteries, vehicle fluids, home
30 chemicals.)
- 31 (9) Provide information to commercial target audiences in coordination
32 with the source control inspection program.
- 33 iii. Each Permittee shall develop and implement a public education and
34 outreach program designed to reach 100% of the target audiences
35 identified in S7.c.10.b.ii., above, within their jurisdiction, by the
36 expiration date of this permit.
- 37 iv. Each permittee shall track and maintain records of public education
38 activities.

1 **S8. STORMWATER MANAGEMENT PROGRAM FOR CO-PERMITTEES AND**
2 **SECONDARY PERMITTEES**

3 *Our main comment for S8 is do not put the County in the position of being the lead for*
4 *everything being coordinated under this part of the permit. Do not delegate DOE*
5 *responsibilities to us.*

6 A. Each Co-Permittee and Secondary Permittee shall implement a stormwater
7 management program (SWMP) during the term of this permit. For the purpose of this
8 permit a SWMP for a Co-Permittee or Secondary Permittee is a set of actions and
9 activities comprising the components in this Special Condition as outlined below. The
10 SWMP shall also include any additional controls identified in Appendix 6 of this
11 permit which are necessary to meet applicable TMDL requirements.

12 1. S8.B Coordination, and S8.C Legal Authority are applicable to all Co-Permittees
13 and Secondary Permittees covered under this permit.

14 2. S8.D is applicable only to Port Districts Covered under this Permit.

15 3. S8.E is applicable only to King County as a Co-Permittee with the City of Seattle
16 for MS4s owned by King County but located within the City of Seattle.

17 4. S8.F is applicable all other Secondary Permittees excluding Port Districts.

18 B. Coordination

19 The SWMP for all Co-Permittees and Secondary Permittees shall include mechanisms
20 among Permittees, Co-Permittees, and Secondary Permittees to encourage coordinated
21 stormwater-related policies, programs and projects within a watershed and
22 interconnected municipal separate storm sewers. Where relevant and appropriate, the
23 SWMP shall also include coordination among departments within each jurisdiction to
24 ensure compliance with the terms of this permit.

25 No later than 6 months after receiving coverage under this permit the SWMP shall
26 provide for appropriate coordination with the City and County in which the Secondary
27 Permittee or Co-Permittee is located.

28 C. Legal Authority

29 To the extent allowable under state law, all Co-Permittees and Secondary Permittees
30 shall operate pursuant to adequate legal authority which authorizes or enables the
31 Secondary Permittee and Co-permittee to control discharges to and from municipal
32 separate storm sewers owned or operated by the Secondary Permittee.

33 This legal authority, which may be a combination of statute, ordinance, permit,
34 contracts, orders, interagency agreements, or similar means, shall include the ability to:

35 1. Control the contribution of pollutants to municipal separate storm sewers owned or
36 operated by the Co-Permittee or Secondary Permittee from stormwater discharges

1 associated with industrial activity, and control the quality of stormwater discharged
2 from sites of industrial activity, and control the quality of stormwater discharged
3 from sites of industrial activity into the Permittees municipal separate storm sewer

- 4 2. Prohibit illicit discharges to the municipal separate storm sewer owned or operated
5 by the Co-Permittee or Secondary Permittee;
- 6 3. Control the discharge of spills and the dumping or disposal of materials other than
7 stormwater into the municipal separate storm sewers owned or operated by the Co-
8 Permittee or Secondary Permittee;
- 9 4. Control the contribution of pollutants from one portion of the municipal separate
10 storm sewer system to another portion of the municipal separate storm sewer
11 system; *Ecology responsibility.*
- 12 5. Require compliance with conditions in ordinances, permits, contracts, or orders;
13 and,
- 14 6. Carry out inspection, surveillance, and monitoring procedures necessary to
15 determine compliance and non-compliance with permit conditions, including the
16 prohibition on illicit discharges to the municipal separate storm sewer.

17 D. Stormwater Management Program for Port Districts:

- 18 1. Gathering, Maintaining, and Using Adequate Information. The SWMP shall include
19 an ongoing program for gathering, maintaining, and using adequate information to
20 conduct planning, priority setting, and program evaluation activities for Port-owned
21 properties.

22 Minimum Performance Measures. The following information will be gathered and
23 retained:

- 24 a. Mapping of known municipal separate storm sewer outfalls, and maps depicting
25 land use for property owned by the Port district, and all other properties served
26 by municipal separate storm sewers owned or operated by the Port. The
27 mapping shall be completed within 18 months of receiving coverage under this
28 permit.
- 29 b. Mapping of tributary conveyances, and the associated drainage areas of *major*
30 *municipal separate storm sewer outfalls*, will be completed within 2 years of the
31 effective date of this permit.
- 32 c. Each Port shall make available to Ecology, upon request, GIS data layers
33 depicting outfall locations, land use, tributary conveyances and associated
34 drainage areas of major outfalls. GIS data shall be submitted in the format
35 specified by Ecology at:
36 <http://www.ecy.wa.gov/services/gis/data/standards.htm>.
- 37 c. No later than 18 months after receiving coverage under this permit, develop and
38 implement a program to maintain operation and maintenance records for
39 stormwater management facilities, indicating the date, what actions were taken

1 and where wastes were disposed of. The information shall be available for
2 inspection.

- 3 d. Upon Request, mapping information and operation and maintenance records
4 shall be provided to the City or County in which the Port is located.
5

- 6 2. Source Control in existing Developed Areas. The SWMP shall include a program
7 to address impacts caused by stormwater discharges from areas of existing
8 development through the development and implementation of Stormwater Pollution
9 Prevention Plans (SWPPPs). SWPPPs shall be prepared and implemented for all
10 Port-owned lands with potential pollutant-generating sources (see Appendix 3, for
11 definition of pollutant-generating sources) that are not covered under the Industrial
12 Stormwater General Permit, the Boatyard General Permit or an individual NPDES
13 permit that covers stormwater discharges, and that could contribute pollutants to
14 municipal separate storm sewers owned or operated by the Port.

15 Minimum Performance Measures

- 16 a. SWPPPs must be developed for applicable properties within 18 months of
17 receiving coverage under this permit. The SWPPP is a documented plan to
18 implement measures to identify, prevent, and control the contamination of
19 discharges of stormwater to surface or ground water.
- 20 b. The SWPPP shall include a facility assessment including a site plan,
21 identification of pollutant sources and description of the drainage system.
- 22 c. The SWPPP shall include a description of the BMPs necessary for the site to
23 eliminate or reduce stormwater contamination and, if necessary, regulate peak
24 flow and volume of stormwater discharge. Implementation of non-structural
25 BMPs shall begin immediately after the pollution prevention plan is developed.
26 A schedule for implementation of structural BMPs shall be included in the
27 SWPPP. Generic SWPPPs that can be applied at multiple sites may be used to
28 comply with this requirement.
- 29 d. The Port shall maintain a list of sites for which SWPPPs are required under this
30 permit. At least 15% of the listed sites shall be inspected annually, and 80% of
31 the total number of listed properties will be inspected during the term of the
32 permit.
- 33 e. The SWPPPs shall include policies and procedures to reduce pollutants
34 associated with the application of pesticides, herbicides and fertilizer.
- 35 f. The SWPPPs shall include measures to prevent, identify and respond to illicit
36 discharges, including illicit connections, spills and improper disposal.
37 Immediately upon becoming aware of a spill into the drainage system owned or
38 operated by the Port, the Port shall notify the City or County it is located in, and
39 notify Ecology.

1 g. The SWPPPs shall include a component related to inspection and maintenance
2 of stormwater treatment and flow control facilities, and catchbasins, that is
3 consistent with the Port's Operation and Maintenance Program, as specified in
4 3., below. The SWPPP will address appropriate training for maintenance staff.
5 Records of inspections and maintenance activities shall be maintained.

6 3. Operation and Maintenance Program. The SWMP shall include an operation and
7 maintenance program for all stormwater treatment and flow control facilities, and
8 catchbasins to ensure that BMPs continue to function properly.

9 Minimum Performance Measures:

10 a. Each Port must prepare an operation and maintenance manual for all
11 stormwater treatment and flow control BMPs that are owned or maintained by
12 the Port. The deadline for preparing the maintenance manual is 18 months after
13 receiving coverage under this permit. A copy of the manual shall be retained in
14 the appropriate Port department. The operation and maintenance manual shall
15 establish facility-specific maintenance standards that are as protective, or more
16 protective than those specified in Chapter 4 of Volume V of the 2001
17 Stormwater Management Manual for Western Washington.

18 The facility-specific maintenance standards are intended to be conditions for
19 determining if maintenance actions are required as identified through
20 inspection. They are not a measure of the facilities required condition at all
21 times between inspections. Exceeding the maintenance standards between
22 inspections and/or maintenance does not automatically constitute a violation of
23 these standards. However, based upon inspection observations, the inspection
24 and maintenance schedules shall be adjusted to minimize the length of time that
25 a facility is in a condition that requires a maintenance action. These standards
26 are violated when an inspection identifies a required maintenance action, and
27 that action is not performed within 90 days for typical maintenance, within 6
28 months for re-vegetation, and within 1 year for maintenance that requires capital
29 construction.

30 b. Each Port will manage maintenance activities to inspect all stormwater
31 treatment and flow control BMPs annually and take appropriate maintenance
32 action in accordance with the operation and maintenance manual. The annual
33 inspection schedule may be changed to a lesser or greater frequency of
34 inspection as appropriate to ensure compliance with maintenance standards
35 based on maintenance records of double the length of time of the proposed
36 inspection frequency.

37 c. The Port shall provide appropriate training for Port maintenance staff.

38 4. Education Program. The SWMP shall include an education program aimed at
39 tenants and Port employees. The goal of the education program is to reduce or
40 eliminate behaviors and practices that cause or contribute to adverse stormwater
41 impacts.

1 Minimum Performance Measure:

- 2 a. No later than 18 months after receiving coverage under this permit, all tenant
3 and Port employees whose job duties could negatively impact stormwater will
4 receive educational materials.

5 5. Monitoring Program. The monitoring requirements for the Port of Seattle and Port
6 of Tacoma are included in Special Condition S6.

7 E. Stormwater Management Program for King County as a Co-Permittee

8 King County as a Co-Permittee with the City of Seattle for the Densmore Metro
9 Drainage Basin, as defined in the Memorandum of Agreement between the City and
10 King County dated September 25, 1995, shall participate in the City of Seattle's
11 Stormwater Management Program in accordance with the Joint Stormwater
12 Management Program element of the Memorandum of Agreement. The Joint
13 Stormwater Management Program shall at a minimum include the following:

- 14 1. Stormwater controls for areas of existing development consistent with S7.C.6.
15 2. A source control program consistent with S7.C.7.
16 3. An illicit discharge reduction program consistent with S7.C.8.
17 4. An operation and maintenance program consistent with S7.C.9.
18 5. A public education program consistent with S7.C.10.

19 F. Stormwater Management Program for Secondary Permittees

20 All other Secondary Permittees shall develop and implement the following Stormwater
21 Management Program. The term "all other Secondary Permittees" means drainage,
22 diking, flood control, or diking and drainage districts, and any other owners or
23 operators of municipal separate storm sewers located within the municipalities that are
24 listed as Permittees in special condition S1.B.

25 The SWMP shall be designed to reduce the discharge of pollutants from regulated small
26 MS4s to the maximum extent practicable and protect water quality. A SWMP is a set
27 of actions and activities comprising the components listed in S8.F.1 through S8.F.6,
28 below. Unless an alternate deadline is provided below, all components of the SWMP
29 shall be fully developed and implemented within 5 years of receiving coverage under
30 this permit.

31 1. Public Education and Outreach

32 Secondary Permittees must develop and implement a public education and outreach
33 program. The program shall distribute educational materials or conduct equivalent
34 outreach activities to educate the public, businesses and other entities in the area served
35 by the Secondary Permittees MS4.

36 The minimum performance measures are:

- 1 a. Each Secondary Permittee shall identify at least one target audience served by the
2 Secondary Permittees MS4 for stormwater education and will provide appropriate
3 information to that audience about proper stormwater management to prevent
4 water quality impacts.
- 5 b. The target audience(s) must be identified within one year from the date of permit
6 coverage; an outreach strategy designed to reach 100% of the identified target
7 audience must be developed and implemented within four years from the date of
8 permit coverage. This requirement may be met by participating in the education
9 program of the permitted jurisdiction that the secondary permittee is located
10 within.

11 2. Public Involvement

12 At a minimum, Secondary Permittees must comply with applicable State, tribal and
13 local public notice requirements when implementing a public involvement and
14 participation program. The SWMP shall include ongoing opportunities for public
15 involvement and participation through advisory panels, public hearings, watershed
16 committees, participation in developing rate-structures, stewardship programs,
17 environmental activities, volunteer opportunities, or other similar activities.

18 3. Illicit Discharge Detection and Elimination

19 The SWMP shall include measures to prevent, identify and respond to illicit discharges,
20 including illicit connections, spills, and improper disposals, which shall include
21 appropriate inspections and reports, and appropriate training and procedures to be used
22 by field staff to recognize, report, and respond to, illicit discharges.

23 The minimum performance measures are:

- 24 a. From the date of permit coverage, comply with all relevant ordinances, rules, and
25 regulations of the local jurisdiction(s) in which the Secondary Permittee is located
26 that govern discharges into the local jurisdictions municipal separate storm sewer
27 system.
- 28 b. Develop and enforce appropriate policies prohibiting illicit discharges and illegal
29 dumping. Identify possible enforcement mechanisms within one year from the
30 date of permit coverage; and, within eighteen months from the date of permit
31 coverage, develop and implement an enforcement plan using these mechanisms to
32 ensure compliance with illicit discharge policies adopted by the Secondary
33 Permittee.
- 34 c. Develop a map of the municipal separate storm sewer system owned or operated
35 by the Secondary Permittee within 2 years from the date of permit coverage. The
36 map shall include all known storm drain outfalls to waters of the state and the
37 name of the receiving water body or discharge points into adjacent MS4s. The
38 map shall also include all known tributary conveyances, and their associated
39 drainage areas, for all areas served by the MS4 owned or operated by the
40 Secondary Permittee.

1 The storm sewer map shall be provided to the City or County in which the
2 Secondary Permittee is located, upon the request of those entities. In accordance
3 with S7.C.2, Secondary Permittees may request mapping information from other
4 entities covered under this permit.

- 5 d. By the end of the permit term, develop and implement a spill response plan that
6 includes coordination with a qualified spill responder.
- 7 e. Provide staff training or coordinate with existing training efforts to educate
8 relevant staff on proper best management practices for identifying and preventing
9 spills and illicit discharges. All relevant staff must be trained by the end of the
10 permit term.
- 11 f. Identify areas of industrial activity served by the Secondary Permittee's MS4 that
12 require coverage under the Industrial General Permit, determine whether coverage
13 has been obtained, and inform the Department if coverage has not be obtained.

14 4. Construction Site Stormwater Runoff Control

15 The SWMP shall include a program to reduce pollutants in any stormwater runoff to
16 the MS4 from construction activities that meet the thresholds in Appendix 1 of this
17 permit.

18 The minimum performance measures are:

- 19 a. From the date of permit coverage, comply with all relevant ordinances, rules, and
20 regulations of the local jurisdiction(s) in which the secondary permittee is located
21 that govern construction phase stormwater pollution prevention measures.
- 22 b. From the date of permit coverage, seek coverage under the General NPDES
23 Permit for Stormwater Discharges Associated with Construction Activities, when
24 applicable.
- 25 c. Provide training or coordinate with existing training efforts to educate relevant
26 staff in erosion and sediment control BMPs and requirements, or hire trained
27 contractors to perform the work.

28 5. Post-Construction Stormwater Management for New Development and 29 Redevelopment

30 The SWMP shall include a program to address post-construction stormwater runoff
31 from new development and redevelopment projects that meet the thresholds in
32 Appendix 1 of this permit. The program must ensure that controls are in place that
33 would prevent or minimize water quality impacts.

34 The minimum performance measures are:

- 35 a. From the date of permit coverage, comply with all relevant ordinances, rules and
36 regulations of the local jurisdiction(s) in which the secondary permittee is located

1 that govern post-construction stormwater pollution prevention measures,
2 including proper operation and maintenance of the MS4.

- 3 b. Provide for the post-construction stormwater controls included in Appendix 1 to
4 be included on all new construction and other land-disturbing projects and ensure
5 that qualified staff or contractors design post-construction stormwater controls as
6 necessary to protect water quality on all projects.

7 6. Pollution Prevention and Good Housekeeping

8 All permittees must develop and implement an operation and maintenance program
9 (O&M Plan) that includes a training component and has the ultimate goal of preventing
10 or reducing pollutant runoff from municipal operations into MS4s. Within three years
11 from the date of permit coverage, each Secondary Permittee shall develop a municipal
12 O&M Plan. The O&M plan shall be fully implemented no later than five years from
13 the date of permit coverage.

14 The minimum performance measures are:

- 15 a. The O&M Plan shall include appropriate pollution prevention and good
16 housekeeping procedures for the following activities and/or types of facilities
17 carried out, or under the functional control of the of the Secondary Permittee:
18 • Stormwater collection and conveyance system maintenance
19 • Drainage/ditch system maintenance
20 • Structural stormwater controls
21 • Roads, highways, and parking lots
22 • Vehicle fleets (storage, washing, and maintenance)
23 • Equipment storage and maintenance areas
24 • Material storage areas
25 • Parks and open space
26 • Other facilities that that would reasonably be expected to discharge
27 contaminated runoff
- 28 b. The O&M plan shall include pollution prevention/good housekeeping practices at
29 all park areas and other open spaces maintained by the Secondary Permittee. The
30 O&M Plan must address, but is not limited to:
31 • Application of fertilizer, pesticides, and herbicides
32 • Sediment and erosion control
33 • Landscape maintenance and vegetation disposal
34 • Trash management
35 • Building exterior cleaning and maintenance
- 36 c. The O&M Plan shall include provisions for the regular inspection and
37 maintenance of post-construction structural BMPs. The O&M Plan shall establish
38 facility-specific maintenance standards that are as protective or more protective
39 than those specified in Chapter 4 of Volume V of the 2005 Stormwater
40 Management Manual for Western Washington.

The facility-specific maintenance standards are intended to be conditions for determining if maintenance actions are required as identified through inspection. They are not a measure of the facility's required condition at all times between inspections. Exceeding the maintenance standards between inspections and/or maintenance does not automatically constitute a violation of these standards. However, based upon inspection observations, the inspection and maintenance schedules shall be adjusted to minimize the length of time that a facility is in a condition that requires a maintenance action. These standards are violated when an inspection identifies a required maintenance action, and that action is not performed within 90 days for typical maintenance, within 6 months for re-vegetation, and within 1 year for maintenance that requires capital construction of less than \$5,000.

- d. Secondary Permittees shall annually inspect all post construction stormwater BMPs. The annual inspections program shall begin no later than three years from the date of permit coverage. The annual inspection schedule may be changed to a lesser or greater frequency of inspection as appropriate to ensure compliance with maintenance standards based on maintenance records of double the length of time of the proposed inspection frequency.
- e. Secondary Permittees shall properly maintain stormwater collection and conveyance systems, including but not limited to: regular inspections, cleaning, proper disposal of waste removed from the system (per Appendix 7), and record keeping.
- f. From the effective date of permit coverage, Secondary Permittees shall identify, and submit a Notice of Intent for permit coverage for all facilities operated by the Secondary Permittee that are required to be covered under the General NPDES Permit for Stormwater Discharges Associated with Industrial Activities.
- g. Secondary Permittees shall provide appropriate training for employees of the Secondary Permittee whose construction, operations, or maintenance job functions may impact stormwater quality. Training shall address the importance of protecting water quality, the requirements of this permit, operation and maintenance requirements, inspection procedures, ways to perform their job activities to prevent or minimize impacts to water quality, and procedures for reporting water quality concerns, including potential illicit discharges.

S9. REPORTING REQUIREMENTS

- A. Each Permittee, co-Permittee and secondary Permittee shall submit, no later than March 31 of each year beginning in the year 2007, an annual report. The reporting period for each annual report shall be the previous calendar year.
- B. The annual report shall include the following information:

1. Status of compliance with the conditions of this permit, including the status of implementing the components of the stormwater management program, and the implementation schedule. If permit deadlines are not met, Permittees, co-Permittees and secondary Permittees shall report the reasons why the requirement was not met and how the requirements will be met in the future, including projected implementation dates. A comparison of program implementation results to performance standards established in this permit shall be included for each program area.
2. Notification of any recent or proposed annexations or incorporations resulting in an increase or decrease in permit coverage area, and implications for the stormwater management program
3. Expenditures for the reporting period, with a breakdown for the components of the stormwater management program. *See comments previously. This is extremely difficult to do, and the numbers are especially questionable from divisions where stormwater is not their main workload.*
4. A summary describing compliance activities, including the nature and number of official enforcement actions, inspections, and types of public education activities; and
5. Identification of known water quality improvements or degradation.

C. Report Format

Each Permittee, co-Permittee or secondary Permittee shall use the attached reporting forms, in Appendix 8, which is by this reference as if set forth fully herein. Each Permittee shall complete the applicable form in its entirety. Two copies of the annual report shall be submitted to Ecology. In addition, an electronic copy of the report, in pdf format, shall be submitted to Ecology *Would have been nice to see this, because perhaps it will take care of the financial portion as well.*

1 GENERAL CONDITIONS

3 **G1. DISCHARGE VIOLATIONS**

4 All discharges and activities authorized by this permit shall be consistent with the terms
5 and conditions of this permit.

6 **G2. PROPER OPERATION AND MAINTENANCE**

7 The Permittee shall at all times properly operate and maintain all facilities and systems of
8 collection, treatment, and control (and related appurtenances) which are installed or used
9 by the Permittee for pollution control to achieve compliance with the terms and conditions
10 of this permit.

11 **G3. NOTIFICATION OF SPILL**

12 If a Permittee has knowledge of a spill into a municipal storm sewer which could constitute
13 a threat to human health, welfare, or the environment, the Permittee shall notify the
14 Ecology regional office and other appropriate spill response authorities immediately but in
15 no case later than within 24 hours of obtaining that knowledge. Spills which might cause
16 bacterial contamination of shellfish, such as might result from broken sewer lines, shall be
17 reported immediately to the Department of Ecology and the Department of Health,
18 Shellfish Program. The Department of Ecology's Regional Office 24-hr. number is 425
19 649-7000 for NWRO and 360 407-6300 for SWRO and the Department of Health's
20 Shellfish 24-hr. number is 360-236-3330. *Good to have this in here.*

21 **G4. BYPASS PROHIBITED**

22 The intentional *bypass* of stormwater from all or any portion of a stormwater treatment
23 BMP whenever the design capacity of the treatment BMP is not exceeded, is prohibited
24 unless the following conditions are met:

- 25 A. Bypass is: (1) unavoidable to prevent loss of life, personal injury, or severe property
26 damage; or (2) necessary to perform construction or maintenance-related activities
27 essential to meet the requirements of the *Clean Water Act (CWA)*; and
- 28 B. There are no feasible alternatives to bypass, such as the use of auxiliary treatment
29 facilities, retention of untreated stormwater, or maintenance during normal dry periods.

30 "Severe property damage" means substantial physical damage to property, damage to
31 the treatment facilities which would cause them to become inoperable, or substantial
32 and permanent loss of natural resources which can reasonably be expected to occur in
33 the absence of a bypass. Severe property damage does not mean economic loss.

34 *Shouldn't this be in the Glossary as well??*

1 **G5. RIGHT OF ENTRY**

2 The Permittee shall allow an authorized representative of Ecology, upon the presentation of
3 credentials and such other documents as may be required by law at reasonable times:

- 4 A. To enter upon the Permittee's premises where a discharge is located or where any
5 records must be kept under the terms and conditions of this permit;
- 6 B. To have access to, and copy at reasonable cost and at reasonable times, any records that
7 must be kept under the terms of the permit;
- 8 C. To inspect at reasonable times any monitoring equipment or method of monitoring
9 required in the permit;
- 10 D. To inspect at reasonable times any collection, treatment, pollution management, or
11 discharge facilities; and
- 12 E. To sample at reasonable times any discharge of pollutants.

13 **G6. DUTY TO MITIGATE**

14 The Permittee shall take all reasonable steps to minimize or prevent any discharge in
15 violation of this permit which has a reasonable likelihood of adversely affecting human
16 health or the environment.

17 **G7. PROPERTY RIGHTS**

18 This permit does not convey any property rights of any sort, or any exclusive privilege.

19 **G8. COMPLIANCE WITH OTHER LAWS AND STATUTES**

20 Nothing in the permit shall be construed as excusing the Permittee from compliance with
21 any other applicable federal, state, or local statutes, ordinances, or regulations.

22 **G9. MONITORING**

23 A. Representative Sampling:

24 Samples and measurements taken to meet the requirements of this permit shall be
25 representative of the volume and nature of the monitored discharge, including
26 representative sampling of any unusual discharge or discharge condition, including
27 bypasses, upsets, and maintenance-related conditions affecting effluent quality.

28 B. Records Retention:

29 The Permittee shall retain records of all monitoring information, including all
30 calibration and maintenance records and all original recordings for continuous
31 monitoring instrumentation, copies of all reports required by this permit, and records of
32 all data used to complete the application for this permit, for a period of at least five
33 years. This period of retention shall be extended during the course of any unresolved
34 litigation regarding the discharge of pollutants by the Permittee or when requested by
35 the *Director*. On request, monitoring data and analysis shall be provided to Ecology.

36 *Only having a 5 year retention requirement on monitoring data (and I mean the data,*

1 *not calibration records) is not long enough when we know that we need at least a 20*
2 *year discontinuous flow record to start seeing trending. I don't necessarily want this*
3 *as a permit item beyond the 5 years, and I certainly will ensure we keep our records*
4 *permanently, but it is something to consider. Again, speaks to getting us all putting*
5 *money in a pot for certain monitoring functions, and this is one of them.*

6 C. Recording of Results:

7 For each measurement or sample taken, the Permittee shall record the following
8 information: (1) the date, exact place and time of sampling; (2) the individual who
9 performed the sampling or measurement; (3) the dates the analyses were performed; (4)
10 who performed the analyses; (5) the analytical techniques or methods used; and (6) the
11 results of all analyses.

12 D. Test Procedures:

13 All sampling and analytical methods used to meet the monitoring requirements
14 specified in the approved stormwater management program shall conform to the
15 Guidelines Establishing Test Procedures for the Analysis of Pollutants contained in 40
16 CFR Part 136, unless otherwise specified in this permit or approved in writing by
17 Ecology.

18 E. Flow Measurement:

19 Appropriate flow measurement devices and methods consistent with accepted scientific
20 practices shall be selected and used to ensure the accuracy and reliability of
21 measurements of the volume of monitored discharges. The devices shall be installed,
22 calibrated, and maintained to ensure that the accuracy of the measurements are
23 consistent with the accepted industry standard for that type of device. Frequency of
24 calibration shall be in conformance with manufacturer's recommendations or at a
25 minimum frequency of at least one calibration per year. Calibration records should be
26 maintained for a minimum of three years.

27 F. Lab Accreditation:

28 All monitoring data, except for flow, temperature, conductivity, pH, total residual
29 chlorine, and other exceptions approved by Ecology, shall be prepared by a laboratory
30 registered or accredited under the provisions of, Accreditation of Environmental
31 Laboratories, Chapter 173-50 WAC. Soils and hazardous waste data are exempted
32 from this requirement pending accreditation of laboratories for analysis of these media
33 by Ecology. *You need to add DO to this list—we all(including Ecology staff) use the*
34 *probe method, with occasional checks in the lab using the Winkler method.*

35 G. Additional Monitoring:

36 Ecology may establish specific monitoring requirements in addition to those contained
37 in this permit by administrative order or permit modification.

38 **G10. REMOVED SUBSTANCES**

39 With the exception of decant from street waste vehicles, the Permittee shall not allow
40 collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed

1 in the course of treatment or control of stormwater to be resuspended or reintroduced to
2 the storm sewer system or to waters of the state. Decant from street waste vehicles
3 resulting from cleaning stormwater facilities may be reintroduced only when other
4 practical means are not available and only in accordance with the Street Waste Disposal
5 Guidelines in Appendix 7, which is by this reference as if set forth fully herein.

6 **G11. SEVERABILITY**

7 The provisions of this permit are severable, and if any provision of this permit, or the
8 application of any provision of this permit to any circumstance, is held invalid, the
9 application of such provision to other circumstances, and the remainder of this permit
10 shall not be affected thereby.

11 **G12. REVOCATION OF COVERAGE**

12 The director may terminate coverage under this General Permit in accordance with
13 Chapter 43.21B RCW and Chapter 173-226 WAC. Cases where coverage may be
14 terminated include, but are not limited to the following:

- 15 A. Violation of any term or condition of this general permit;
- 16 B. Obtaining coverage under this general permit by misrepresentation or failure to
17 disclose fully all relevant facts;
- 18 C. A change in any condition that requires either a temporary or permanent reduction
19 or elimination of the permitted discharge;
- 20 D. A determination that the permitted activity endangers human health or the
21 environment, or contributes significantly to water quality standards violations;
- 22 E. Failure or refusal of the Permittee to allow entry as required in rcw 90.48.090;
- 23 F. Nonpayment of permit fees assessed pursuant to rcw 90.48.465;

24 Revocation of coverage under this general permit may be initiated by Ecology or
25 requested by any interested person.

26 **G13. TRANSFER OF COVERAGE**

27 The director may require any discharger authorized by this general permit to apply for
28 and obtain an individual permit in accordance with Chapter 43.21B RCW and Chapter
29 173-226 WAC.

30 **G14. GENERAL PERMIT MODIFICATION AND REVOCATION**

31 This general permit may be modified, revoked and reissued, or terminated in
32 accordance with the provisions of WAC 173-226-230. Grounds for modification,
33 revocation and reissuance, or termination include, but are not limited to the following:

- 34 A. A change occurs in the technology or practices for control or abatement of
35 pollutants applicable to the category of dischargers covered under this general
36 permit;

- 1 B. Effluent limitation guidelines or standards are promulgated pursuant to the CWA or
2 chapter 90.48RCW, for the category of dischargers covered under this general
3 permit;
- 4 C. A water quality management plan containing requirements applicable to the
5 category of dischargers covered under this general permit is approved; or
- 6 D. Information is obtained which indicates that cumulative effects on the environment
7 from dischargers covered under this general permit are unacceptable.

8 **G15. REPORTING A CAUSE FOR MODIFICATION OR REVOCATION**

9 A Permittee who knows or has reason to believe that any activity has occurred or will
10 occur which would constitute cause for modification or revocation and reissuance under
11 Condition G12, G14, or 40 CFR 122.62 must report such plans, or such information, to
12 Ecology so that a decision can be made on whether action to modify, or revoke and
13 reissue this permit will be required. Ecology may then require submission of a new or
14 amended application. Submission of such application does not relieve the Permittee of
15 the duty to comply with this permit until it is modified or reissued.

16 **G16. APPEALS**

- 17 A. The terms and conditions of this general permit, as they apply to the appropriate
18 class of dischargers, are subject to appeal within thirty days of issuance of this
19 general permit, in accordance with Chapter 43.21B RCW, and Chapter 173-226
20 WAC.
- 21 B. The terms and conditions of this general permit, as they apply to an individual
22 discharger, are appealable in accordance with chapter 43.21b rcw within thirty days
23 of the effective date of coverage of that discharger. Consideration of an appeal of
24 general permit coverage of an individual discharger is limited to the general
25 permit's applicability or nonapplicability to that individual discharger.
- 26 C. The appeal of general permit coverage of an individual discharger does not affect
27 any other dischargers covered under this general permit. If the terms and conditions
28 of this general permit are found to be inapplicable to any individual discharger(s),
29 the matter shall be remanded to ecology for consideration of issuance of an
30 individual permit or permits.
- 31 D. Modifications of this permit are appealable in accordance with chapter 43.21B
32 RCW and chapter 173-226 WAC.

33 **G17. PENALTIES**

34 40 CFR 122.41(a)(2) and (3), 40 CFR 122.41(j)(5), and 40 CFR 122.41(k)(2) are
35 hereby incorporated into this permit by reference.

36 **G18. DUTY TO REAPPLY**

37 The Permittee must apply for permit renewal at least 180 days prior to the specified
38 expiration date of this permit. An expired permit continues in force and effect until a

1 new permit is issued or until Ecology cancels the permit. Only Permittees who have
2 reapplied for coverage under this permit are covered under the continued permit.

3 **G19. CERTIFICATION AND SIGNATURE**

4 All applications, reports, or information submitted to Ecology shall be signed and
5 certified.

6 A. All permit applications shall be signed by either a principal executive officer or
7 ranking elected official.

8 B. All reports required by this permit and other information requested by Ecology shall
9 be signed by a person described above or by a duly authorized representative of that
10 person. A person is a duly authorized representative only if:

11 1. The authorization is made in writing by a person described above and submitted
12 to Ecology, and

13 2. The authorization specifies either an individual or a position having responsibility
14 for the overall development and implementation of the stormwater management
15 program. (A duly authorized representative may thus be either a named individual
16 or any individual occupying a named position.)

17 C. Changes to authorization. If an authorization under General Condition G19.B.2 is no
18 longer accurate because a different individual or position has responsibility for the
19 overall development and implementation of the stormwater management program, a
20 new authorization satisfying the requirements of General Condition G19.B.2 must be
21 submitted to Ecology prior to or together with any reports, information, or
22 applications to be signed by an authorized representative.

23 D. Certification. Any person signing a document under this permit shall make the
24 following certification:

25 "I certify under penalty of law, that this document and all attachments were prepared
26 under my direction or supervision in accordance with a system designed to assure that
27 qualified personnel properly gathered and evaluated the information submitted.
28 Based on my inquiry of the person or persons who manage the system or those
29 persons directly responsible for gathering information, the information submitted is,
30 to the best of my knowledge and belief, true, accurate, and complete. I am aware that
31 there are significant penalties for submitting false information, including the
32 possibility of fine and imprisonment for willful violations."

33 **G20. RECORDS RETENTION**

34 Each Permittee is required to keep all records related to this permit for at least five years.

1 **DEFINITIONS AND ACRONYMS**

2 "Best Management Practices" ("BMPs") means the schedules of activities, prohibitions of
3 practices, maintenance procedures, and structural and/or managerial practices that when used
4 singly or in combination, prevent or reduce the release of pollutants and other adverse impacts to
5 waters of Washington State.

6 Bypass means the diversion of stormwater from any portion of a stormwater treatment facility.

7 "CWA" means Clean Water Act (formerly referred to as the Federal Water Pollution Control Act
8 or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub.
9 L. 95-217, Pub. L. 95-576, Pub. L. (6-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

10 "Component" or "Program Component" means the elements of the stormwater management
11 program listed in Special Condition S7 or S8.

12 "Co-Permittee" means an owner or operator of a municipal separate storm sewer (other than an
13 incorporated city) located within a large or medium municipality, that has co-applied for a permit
14 with that municipality, and that is only responsible for permit conditions relating to the discharge
15 for which it is operator.

16 "Director" means the Director of the Washington State Department of Ecology, or an authorized
17 representative.

18 "Discharge" for the purpose of this permit, unless indicated otherwise, refers to discharges from
19 Municipal Separate Storm Sewers of the Permittees.

20 "Existing Stormwater Discharge" means a discharge from a municipal separate storm sewer
21 constructed or vested before the effective date of this permit, at the point where it discharges to
22 receiving waters. An existing stormwater discharge serves an area of existing development and
23 does not include new stormwater sources or new stormwater outfalls

24 "40 CFR" means Title 40 of the Code of Federal Regulations, which is the codification of the
25 general and permanent rules published in the Federal Register by the executive departments and
26 agencies of the federal government.

27 "General Permit" means a permit which covers multiple dischargers of a point source category
28 within a designated geographical area, in lieu of individual permits being issued to each
29 discharger.

30 "Heavy equipment maintenance or storage yard" means an uncovered area where any heavy
31 equipment, such as mowing equipment, excavators, dump trucks, backhoes, or bulldozers are
32 washed or regularly maintained, or where at least five pieces of heavy equipment are stored

33 "Illicit connection" means any man-made conveyance that is connected to a municipal separate
34 storm sewer without a permit, excluding roof drains and other similar type connections.

1 Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets,
2 or outlets that are connected directly to the municipal separate storm sewer system.

3 "Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed
4 entirely of storm water except discharges pursuant to a NPDES permit (other than the NPDES
5 permit for discharges from the municipal separate storm sewer) and discharges resulting from
6 fire fighting activities.

7 "Integrated Pest Management" means a coordinated decision-making and action process that
8 uses the most appropriate pest control methods and strategy in an environmentally and
9 economically sound manner to meet agency programmatic pest management objectives. The
10 elements of integrated pest management include:

11 (a) Preventing pest problems;

12 (b) Monitoring for the presence of pests and pest damage;

13 (c) Establishing the density of the pest population, that may be set at zero, that can be tolerated or
14 correlated with a damage level sufficient to warrant treatment of the problem based on health,
15 public safety, economic, or aesthetic thresholds;

16 (d) Treating pest problems to reduce populations below those levels established by damage
17 thresholds using strategies that may include biological, cultural, mechanical, and chemical
18 control methods and that must consider human health, ecological impact, feasibility, and cost-
19 effectiveness; and

20 (e) Evaluating the effects and efficacy of pest treatments.

21 "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed, and any form
22 of plant or animal life or virus, except virus, bacteria, or other microorganisms on or in a living
23 person or other animal or in or on processed food or beverages or pharmaceuticals, which is
24 normally considered to be a pest, or which the director of the department of agriculture may
25 declare to be a pest.

26 "Large Municipal Separate Storm Sewer System (Large MS4)" means all Municipal Separate
27 Storm Sewers located in an incorporated place with a population of 250,000 or more, a County
28 with unincorporated urbanized areas with a population of 250,000 or more according to the 1990
29 decennial census by the Bureau of Census.

30 "Low Impact Development" (LID) means a stormwater management and land development
31 strategy applied at the parcel and subdivision scale that emphasizes conservation and use of on-
32 site natural features integrated with engineered, small-scale hydrologic controls to more closely
33 mimic pre-development hydrologic functions.

34 "Major Municipal Separate Storm Sewer Outfall" means a municipal separate storm sewer
35 outfall from a single pipe with an inside diameter of 36 inches or more, or its equivalent
36 (discharge from a single conveyance other than circular pipe which is associated with a drainage
37 area of more than 50 acres); or for municipal separate storm sewers that receive stormwater from

lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 12 acres or more).

“Material Storage Facilities” means an uncovered area where bulk materials (liquid, solid, granular, etc.) are stored in piles, barrels, tanks, bins, crates, or other means.

“Medium Municipal Separate Storm Sewer System (Medium MS4)” means all Municipal Separate Storm Sewers (MS3s) located in an incorporated place with a population of more than 100,000 but less than 250,000, or a county with unincorporated urbanized areas of more than 100,000 but less than 250,000 according to the 1990 decennial census by the Bureau of Census.

“Municipal Separate Storm Sewer (MS3)” means a conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State Law) having jurisdiction over disposal of wastes, storm water, or other wastes, including special districts under State Law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) designed or used for collecting or conveying stormwater; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

“National Pollutant Discharge Elimination System” (NPDES) means the national program for issuing, modifying, revoking, and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Federal Clean Water Act, for the discharge of pollutants to surface waters of the state from point sources. These permits are referred to as NPDES permits and, in Washington State, are administered by the Washington Department of Ecology.

“New Stormwater Discharge” includes new stormwater sources and new stormwater outfalls.

“New Stormwater Outfall” means a municipal separate storm sewer, at the point where it discharges to receiving waters, that is vested after the effective date of this permit, and is constructed at a location where a municipal separate stormwater discharge did not exist at the effective date of the permit. A new stormwater outfall may consist of new stormwater sources, existing stormwater sources or a combination of new and existing stormwater sources. A new stormwater outfall does not include a replacement of an existing outfall, provided that the replacement does not increase the volume, flow rate, or pollutant load of the discharge, and discharges to the same water body at approximately the same location.

“New Stormwater Source” means any New Development and Redevelopment, as defined in Appendix 1, that is vested after the effective date of this permit, increases the volume, flow rate,

1 or pollutant load of the stormwater runoff from the site, and discharges to a municipal separate
2 storm sewer owned or operated by the Permittee or co-Permittee.

3 "Notice of Intent" (NOI) means the application for, or a request for coverage under this General
4 Permit pursuant to WAC 173-226-200.

5 "Notice of Intent for Construction Activity," and "Notice of Intent for Industrial Activity" mean
6 the application forms for coverage under the Construction Stormwater General Permit and the
7 Industrial Stormwater General Permit.

8 "Outfall" means point source as defined by 40 CFR 122.2 at the point where a municipal
9 separate storm sewer discharges to waters of the State and does not include open conveyances
10 connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances which
11 connect segments of the same stream or other waters of the State and are used to convey waters
12 of the State.

13 "Physically Interconnected" means that one MS4 is connected to a second MS4 in such a way
14 that it allows for direct discharges to the second system. For example, the roads with drainage
15 systems and municipal streets of one entity are physically connected directly to a MS4 belonging
16 to another entity.

17 "Process Wastewater" means any water which, during manufacture or processing, comes into
18 direct contact with or results from the production or use of any raw material, intermediate
19 product, finished product, by product, or waste product.

20 "Qualified Personnel" means someone who has had professional training in the aspects of
21 stormwater management they are responsible for.

22 "Runoff" see Stormwater.

23 "Shared Waterbodies" means waterbodies, including downstream segments, lakes and estuaries,
24 that receive discharges from more than one Permittee.

25 "Site-specific Information" includes but is not limited to: information in water quality
26 management plans such as watershed or stormwater basin plans, TMDLs, groundwater
27 management plans, and lake management plans; information about hydrology, soils, or the
28 sensitivity of the receiving waters that is obtained through professional field observations or
29 monitoring; and information about likely pollutant sources.

30 "Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.

31 "Stormwater Associated with Industrial Activity" means the discharge from any conveyance
32 which is used for collecting and conveying stormwater, which is directly related to
33 manufacturing, processing or raw materials storage areas at an industrial plant, and is required to
34 have an NPDES permit in accordance with 40 CFR 122.26.

1 "Stormwater Management Manual for Western Washington" means the 5-volume technical
2 manual (Publication Nos. 05-10-029 through 05-10-033) published by Ecology in February
3 2005.

4 "Vesting" means the date, established by local government, that is used to determine which
5 development regulations apply to the review of a complete development permit application or
6 approved development permit.

7 "Waters of the State" includes those waters as defined as "waters of the United States" in 40
8 CFR Subpart 122.2 within the geographic boundaries of Washington State and "waters of the
9 state" as defined in Chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland
10 waters, underground waters, salt waters and all other surface waters and water courses within the
11 jurisdiction of the State of Washington.

12 "Water Quality Standards" means Surface Water Quality Standards, Chapter 173-201A WAC,
13 Ground Water Quality Standards, Chapter 173-200 WAC, and Sediment Management Standards,
14 Chapter 173-204 WAC.